FEDERAL BUREAU OF INVESTIGATION

SUPREME COURT

PART 2 OF 14

FILE NUMBER : 62-27585

FILE DESCRIPTION

BUREAU FILE

SUBJECT Supreme Court

FILE NO. 62-27585 (Part 2)

Release 3

The Attorney General

May 2, 1958

George Cochran Doub
Assistant Attorney General
Civil Division

I believe you may be interested in the attached letter from my good friend, Frank B. Ober, a leader of the Baltimore Bar, with respect to the pending legislation in the Senate designed to reduce the impact of some of the recent "free-wheeling" decisions of the Supreme Court in certain critical areas.

Attachment

cc: Mr. Walsh
Mr. Rankin
Mr. Anderson
Mr. Hoover

REC- 31

EX.- 123 62-27585

23 MAY 20 1958

1 ENCLOSURE

Mr. Tolson
Mr. Boardman
Mr. Belmont
Mr. Clayton
Tele. Room
Mr. Holloman
Miss Gandy

ATTORNEY

b6
b7C

FRANK B. OBER
ROBERT W. WILLIAMS
WILLIAM A. GRIMES
ROBERT STINSON
SOUTHGATE L. MORRISON
J. RIEMAN MCINTOSH
ALEXANDER HARVEY II
RANDALL C. COLEMAN, JR.
DAVID ROSS
THOMAS W. JAMISON, III

OBER, WILLIAMS, GRIMES & STINSON
(FORMERLY RITCHIE, JANNEY, OBER & WILLIAMS)
ATTORNEYS AT LAW
640 MATHIESON BUILDING
BALTIMORE 2, MD.

CABLE ADDRESS "OWG"
TELEPHONE LEXINGTON 9-2820

April 23, 1958

Honorable George Cochran Doub
Assistant U.S. Attorney General
Washington, D. C.

Dear George:

I am writing you because the fight against communism is approaching a crisis. As you know, I first became articulate on the subject in my 1948 address to the Maryland Bar Association, when I was greatly concerned with the attitude of the then majority of the Stone Court (in decisions which brought vigorous dissents from Chief Justice Stone, Justice Roberts, and usually Justices Reed or Frankfurter). That effort resulted in my appointment to head the Maryland Commission, which proposed a moderate law, upheld by the Supreme Court on the loyalty end, and now of doubtful validity on the criminal end because of the Nelson case - a law which incidently prevailed by an almost three to one popular referendum. I had been much encouraged by the attitude of the Vinson Court in the cases involving state laws and in Dennis.

While the anti-subversive fight is non-partisan, I must confess as an enthusiastic Republican I was greatly shocked that the Nelson and the later "Red Monday" decisions were made possible by appointments of the present administration. I know your difficulties, and I am not at all criticizing the Attorney General. But, whatever the history, the fact is that the Department of Justice and the states' fight against communism has been paralyzed by this series of decisions. As I pointed out in my January, 1956, article in the A.B.A. Journal (written prior to Red Monday, in which the decisions on that day were incorporated in a revision before it was finally published), the Court has plainly put itself in opposition to the efforts of both Congress and the Executive, as well as the states, in their efforts to protect our internal security. There is no doubt in the certioraries that have been granted that these decisions are going to continue to emasculate all efforts to control subversion internally, while ironically enough we are spending billions in the external fight, unless the Supreme Court changes its attitude.

ENCLOSURE

62-27585-108

I am wholly sympathetic, therefore, with all reasonable efforts of Congress to correct such decisions for the future, with the earnest hope that the attitude of the Supreme Court will change if Congress acts promptly. Moreover, I am perfectly willing to accept efforts by Congress, even if I don't agree with the exact method, to overcome the action of the Supreme Court, which clearly falls within Judge Hand's definition of legislative action. Surely, great respect is to be given under our form of government to Congress, to which the Constitution has delegated legislative power. The Executive and Judiciary should accord it real and not pretended respect, particularly in a field where legislative and executive (not the Judiciary) have together the public responsibility for the national security. Faced with the fact that the Supreme Court quite obviously minimizes the danger of internal subversion and does not understand it, and assuming the sincerity of Messrs. Brownell, Rogers and Hoover in their efforts to control subversion, it seems to follow in this context - that efforts of Congress to remove the judicial roadblock should be received favorably. I would certainly go a long way before opposing such legislation, even though each one of us would have a little different idea on how it should be framed.

Of course, in testifying before the Judiciary Committee, we naturally suggest our own viewpoint. As a conservative, I happen to be against the original Jenner approach attacking the entire problem from the standpoint of appellate jurisdiction. I did not doubt the constitutional power, as I shall point out hereafter. Even though I am strongly against the decisions in the five areas covered by the original Jenner Bill, I thought it better to cover as many of them as were reasonably possible by statutory change and to restrict the jurisdictional approach to one or two fields, as I shall point out later. Since I testified, I am delighted to find that the Committee has adopted the statutory approach except in one field, to be discussed below, so that most of my objections have been obviated, and in my own view the remainder are within the realm of easy acceptability by tolerant opponents of the original Bill. I can only discuss the Bill as I understand it now is drawn or is likely to be drawn. I think it will be found that the statutory changes are readily classified within the admissible territory of a possible legislative approach, as to which certainly no one can possibly say in advance that they are plainly unconstitutional. The Konigsberg case I will postpone until last.

1. Watkins. I don't think you can possibly read Watkins without seeing that while the Chief Justice in his opinion free-wheeled over the whole field and his dicta are far reaching, the decision itself was narrowly placed on the ground of delegation by Congress of its powers to the Judiciary by 2 U.S.C. §192. Justice Frankfurter's concurrence made this even clearer. What the Court would say if §192 is amended as proposed nobody can possibly anticipate. But one thing is clear - Congress is a coordinate legislative branch, and to perform its functions must have the power to investigate. It had, and still has, the right, if it wants, to punish at the bar of the House for contempt without any delegation to the Judiciary, and that is recognized in the opinion. The congressional power to legislate in this field depends on its investigatory power. Certainly, Congress has a right to see what the limits are of the Supreme Court decisions, and the best way to do it is to amend the delegation of power to the Judiciary and see what happens then. It has the right to know. It may have to, and could of course, recapture the entire power over contempt. The effort to take back a part of the power is at least a rational approach, which should, I submit, be treated with due respect by the administration.

2. Cole. This has been dropped and need not be discussed in this context. I hope some day, as I suggested to the Judiciary Committee, that a special court can be set up to handle quickly, in the interest of the 7,000,000 employees, employment questions. The long delays between hearings of various district courts, Circuit Court of Appeals, Supreme Court, etc. is, I think, unnecessary and very unfair and militates against the loyalty program, but since the second section of the Bill has been dropped entirely there is no use in discussing anything about it.

3. Nelson. I hope and believe that the Bridges Bill will be substituted for the Smith-McClellan approach contained in the present Committee draft. If this is done, as I believe it will be, surely it should greatly affect the attitude of your Department. The Bridges Bill is the same one, under a different number, that was reported by the Senate Judiciary Committee favorably before - I think unanimously - shortly after the Nelson case, but never reached the floor. I have been urging Senator Butler to seek such a substitution. It would avoid substantially all objections to that section. I pointed out as vigorously as I could in my article in the January, 1958, A.B.A. Journal the errors in the Nelson case and how it brought the Supreme Court in conflict with the Legislative and Executive Departments of the Federal Government,

as well as with the states, and created a fundamental attack on our entire conception of a Federal republic - because, among other things, it ignores the most fundamental right of a state, its right of self-preservation. I need not repeat my arguments because the Department of Justice did support the Bill.

4. Yates. I don't know how the Department stands on Yates. I should think you would enthusiastically welcome it, even if you might prefer some other language. Perhaps it is not polite in form, but this is not the first time rude language has been used by one department against another. Usually it has been Presidents in the past, or the Court in the past. So far as the substance is concerned, the correction of the construction of "organization" is plainly called for. The balance is, I think correct, or at least represents a rational approach. There is a lot of law indicating that the clear and present danger doctrine should not block efforts to protect our national security. Certainly, the Vinson Court in the Dennis case had no difficulty. No human being can say that it is plainly unconstitutional, even though some might argue that the judicial engrafting of the rule on the First Amendment makes it a part of the Constitution in fields other than national security. I don't believe it does, even in those fields. But to me it is utterly silly to argue for the subtle distinction, which the Judges themselves say is almost impossible to grasp in effect, between advocating and inciting. It would be utterly unreasonable to say that we are in what Justice Jackson calls such a judicial strait jacket, or a judge-made verbal trap, that the Government can't protect itself against advocacy of its violent overthrow on any theory that a little revolution or a slight pregnancy is all right and constitutionally protected.

5. This leaves Konigsberg alone to be discussed. On this I submit, first, there is ample precedent for the assertion of a power in Congress to alter appellate jurisdiction of the Supreme Court because -

(a) The literal language of the Constitution clearly, in Article II, §22, vests the Supreme Court with original jurisdiction only in certain cases involving international matters. Since Marbury v. Madison expressly so held, original jurisdiction means the right to file in the Supreme Court originally. The appellate jurisdiction under the saving clause is entirely a matter for Congress, and there is no excuse for reading into the clause "with such exceptions and under such regulations as the Congress shall make" except "where constitutional questions are involved" or words to that effect, merely because some people think that the jurisdiction should be frozen. (After

all, the constitutional amendment proposed for that purpose - i.e., the so-called "Butler Amendment" - was not passed, and there is no justification for assuming that the Constitution is amended anyhow merely because some persons think it ought to have been drawn that way in the first place.)

(b) McCardle, a direct authority in the Supreme Court conceding congressional power to take away the appellate jurisdiction of the Supreme Court, has been cited numerous times by the Supreme Court and has never been qualified, nor so far as the Court is concerned has there been any suggestion that that power is limited to non-constitutional questions. Corwin, in "Constitution of the U. S. of America", published by the authority of the Senate, pp 614-615, indicates that there have been no exceptions. Nobody reading the cases cited by him (or a dozen other cases which I have found citing McCardle with approval) can find any qualification of McCardle. Nor does it make any difference whether one believes the jurisdiction of the Court is based upon the Storey theory that is derived from the Constitution, or on the theory that the Supreme Court has no jurisdiction except under the Judiciary Act, for in any event, as Corwin concludes, pp 616-617, Congress has plenary power. In addition to the decisions of the Court, there was much expert opinion quoted in the record of the hearings before the Senate affirming the power of Congress, even where constitutional questions were involved. For example, Mr. Justice Roberts, quoted in the record p. 889, which attains particular significance because he was the leader of the movement which culminated in the proposed constitutional amendment and which the conservative bar then (as it seems to me now, perhaps naively) supported. The Founding Fathers were more prophetic than we had supposed. See also Corwin's statement on the Bill, Record 164-166, Dean Manion's quotation from Justice Douglas, p. 608, and note that opponents of the Bill on the ground of policy did not deny power - e.g., Griswold, 357; Pound, 359; Harris (assuming the classification reasonable), 349. While some extreme witnesses, such as, I think it was the A.D.A. witness, tried to argue the point favorably, even such a witness as Angell, 218, appearing for the Civil Liberties Union, conceded power. Certainly, I agree with Judge Hand that I would doubt the wisdom of treating the Court as our "platonic guardians". Congress is given the ultimate power to override the Executive, and under the necessary and proper clause, as Corwin points out, has organized the judicial system, adopted criminal laws and distributed between the courts the judicial power. See Corwin, op. cit. 308-310.

(c) The arguments of the opposition are either grounded on fallacy or the notion of the witness as to what the Constitution ought to be, rather than what it is. In the first category I place the argument from the supremacy clause, which plainly has to do with which laws are supreme "laws" and not who shall determine constitutionality. Moreover, general "laws" are not made by decisions of courts as between parties to a cause. Decisions are not general laws, but bind the litigants. The supremacy clause does not say which court shall have jurisdiction of what. The distribution of judicial power is made by Article III, §2(2), and under the necessary and proper clause Congress has power to distribute it. (Corwin p. 310).

I can't find any other arguments in the second category that are not in the last analysis based on some theorist's view of necessity - i.e., what ought to be (in his opinion), but not what is in the Constitution. These include all those arguments assuming the question at issue, such as arguments that the Bill would virtually "amend" the Constitution and "tamper with our constitutional form of government". How can anybody be impressed by such a plainly circular argument? And yet it is deliberately made in alleged "legal" memoranda set forth in the record. Or how can anybody be impressed from a legal viewpoint by such arguments as "the Bill would do grievous harm" - manifestly a political argument? Or how can anybody be impressed with arguments against the original Jenner Bill, and presumably against the substitute, that it embraces several matters, when they are all related to the "common defense", which was the principal reason for the adoption of our Constitution? So, the arguments implying that because Congress and the Executive are not omnicient, that the Court must be. Have we forgotten that our constitutional system and the theory of checks and balances are based on the knowledge that human fallibility, learned by the cruel lessons of history? Isn't it slightly naive, even a priori, to believe a judicial oligarchy would be immune, after the experience in communist, criminal and other fields, where the Court has acted, as Judge Hand points out, as a super-legislature? Isn't it almost stupid?

Many of the opponents, including of course all of the left wing witnesses as well as some Civil Rights enthusiasts, argue in favor of the decisions criticized. I don't think there is any doubt about the view of most lawyers being highly critical of the general tenor of those decisions, even though some think that one or two could be supported on highly technical grounds. The view of the conservative bar is perhaps best expressed in Senator O'Conor's splendid report last summer to the American Bar.

Of course, it is not necessary for anybody to agree that some argument cannot be made against constitutionality - which indeed the Court will have to settle if and when it is made. But where a Bill is prima facie constitutional, as it certainly is in view of the unreversed decisions of the Supreme Court and of such authoritative commentators as Corwin, it is hardly subject to administrative objection on that ground.

(d) The Konigsberg case asserts the power of Congress in an extremely limited field, where the States should never have been deprived of jurisdiction in the first place. It is not subject to the objections which could be made to the other sections of the original Jenner Bill because one can agree with most conservative lawyers that the power should be sparingly exercised, and yet agree, or at least not oppose, its exercise in such an extremely narrow field as the Konigsberg area. The right to practice law in a state court is (1) a privilege; (2) granted by the state; (3) no Federal right is involved; (4) no uniformity is necessary; (5) there is appellate jurisdiction already in state courts, so no chaos could result; (6) the Court never should have intervened in the first place if it had adhered to its doctrine of political restraint in what is a political matter, namely, state policy as to professional standards required of lawyers practicing before its courts; (7) Renquist, March 1958 A.B.A. Journal, demonstrates that the Supreme Court in its anxiety to reverse this case reviewed the facts and tried it de novo in the Supreme Court. Such an extension of its jurisdiction has made every case a due process case. To assert that state courts cannot be trusted with constitutional questions is of course to deny the power of Congress under the language of Article III, §2(2).

The most strongly urged and most persuasive attack on the other sections of the original Jenner Bill, such as lack of a coordinating appellate jurisdiction, with chaotic results; Federal rights instead of state privileges, etc., are not involved in Konigsberg at all. Here we have a simple case of another last stand of state sovereignty - can the state courts determine who will be their own officers, or who will have the privilege of practicing law, without interference by the Federal Government? Surely, in this limited field there is no reason why Congress should not say the state courts shall have the final say, even if the wisdom of extending it to other fields should be doubted - though, as I have said in the first place, I do not doubt the power. Indeed, the time may well come, if the Court continues on its present frolic - when the jails will be emptied of all ordinary criminals convicted under ordinary criminal state laws having nothing to do with communism, such as Mallory,

Munn, etc., by doctrinaire extensions of the due process clause, and when all blocks to communist control are finally removed - when the assertion of the power by Congress will be essential to national self-preservation. If the administration should oppose this Bill because of the inclusion of the escape clause correction of the Konigsberg case, it will go far to confirm the assumption by the Court of its power as a super-legislature, so justly criticized by Judge Hand. Here, in my view, we have a fundamental constitutional clash. Both the Administration and Congress have seriously sought to meet the menace of communism. Both have sources of information which have led to their actions, not available to the Judiciary. They, not the Judiciary, have the responsibility for defense. The people have backed the Administration and Congress. Surely, this is no time for minor legalistic objections to be made to the Bill, as it is now evolved in a completely different way from the original Jenner Bill, when it is finally passed. But any such defects are minor compared to the overriding importance of the Executive and Congress continuing to cooperate in a field of importance to national security, as is recognized by the public, was by the Vinson Court - but is not by a majority of the present Court.

I don't think discriminating people will be concerned by the editorials of such papers as the New York Times, and the hang-over from the criticisms of the original Jenner Bill. I must say that, even though agreeing with the objectives, I thought it an unwise method, at the present time anyhow. Its casual treatment by the New York Times is pretty ridiculous, as pointed out by the comment in the National Review of April 12, 1958, and also the Saturday Evening Post of April 19, 1958, photostates of which are enclosed. But I don't mean to get off on the original Jenner Bill, or even the Jenner-Butler Bill, because that is not what is coming from the Committee and it should not be treated as the same, but should be analyzed on its merits without that background. It is unfortunate that there is bound to be a hang-over of that attitude in editorial minds, as illustrated by the vicious attack by the Evening Sun of April 23 and the more restrained criticism of the Morning Sun of April 24. As to the latter, the inclusion of matters such as the investigation of communism, the leaving of certain areas to states, the correction of criminal laws, seem as closely related as the various provisions of the original Internal Security Act and the Communist Control Act. As to the former, the editor of course confuses the issue as to lawyers, which is whether the privilege of becoming an officer of the state court is to be left to the state to determine, and the rhetorical question is based upon the assumption that it must be outrageous not to

have Federal control over the states. This implies a belief in a wholly centralized totalitarian form of government, rather than a Federal republic. So far as congressional investigations go, it ignores the admission in the Watkins case of the power of Congress itself to punish for contempt, the importance of its investigatory powers, the necessary and proper clause, and even in its legislative function indicates that there must be judicial supervision. There might be a debate on these matters, but it can hardly be settled by the assumptions involved in rhetorical questions. Because of the undesirable sweep of the original Jenner approach, editorial criticism is falling into the same error of indiscriminately criticizing every part of the new Bill, which is almost completely dissimilar.

I wouldn't have troubled you with such a lengthy discussion except with the hope that, in view of your position with the Administration, it might to some extent be persuasive to you and, if so, it may contain ideas which would help you in any discussions you may have in administration circles, with the Attorney General, or others.

Best regards.

Sincerely yours,

Frank B. Ober

FBO:AHB

Encls.

P.S. Note particularly the reference to Lincoln in the Post editorial.

F.B.O.

May 5, 1958

PERSONAL

62-27585-108

REC- 31

EX. - 123

Dear George:

I want to thank you for sending to me a copy of your memorandum of May 2, 1958, to the Attorney General with which you transmitted a copy of a letter addressed to you by Mr. Frank B. Ober, of Baltimore, and which, I think, gives as succinct and as sensible an analysis as possible of the legislation which the Senate Judiciary Committee has now favorably considered in connection with endeavoring to correct the situation that has developed as a result of some recent decisions of the United States Supreme Court.

I certainly am in full accord with Mr. Ober's views and only wish that they could receive wider dissemination as they spell "SENSE" to me.

Sincerely,

Honorable George Cochran Doub
Assistant Attorney General
U. S. Department of Justice
Washington, D. C.

JEH:TLC

Tolson
Boardman
Belmont
Mohr
Nease
Parsons
Rosen
Tamm
Trotter
Clayton
Tele. Room
Holloman
Gandy

COMM — FBI
MAY - 5 1958
MAILED 25

MAY 28 1958

Office Memorandum · UNITED STATES GOVERNMENT

SUBJECT:

You have pointed out that in various newspaper articles the comment was made that the Director during his testimony before the House Subcommittee on Appropriations criticized the Supreme Court. The fact of the matter is that the Director did not criticize the Supreme Court or any particular court. He was very careful not to do so. The Director in his testimony, however, does point out that crime and subversion have had mounting successes in employing loopholes, technicalities and delays in the law to defeat the interest of justice. The Director makes it very clear that the courts should do something to stop this practice.

The Director's testimony concerning this matter appears on page 174 of the printed hearings and the testimony in its entirety on this point is as follows:

"Indicative of the overall reaction of the Communist Party to certain court rulings is a statement made by a top Communist functionary while discussing the Supreme Court decision of June 17, 1957, which ordered the acquittal of 5 California Smith Act subjects and retrial of the remaining 9. This functionary commented:

62-27585-

"*** the greatest victory the Communist Party in America has ever received. This decision will mark a rejuvenation of the party in America. We've lost some members in the last few years but now we're on our way again. The people are sick and tired of witch hunts.

NOT RECOR
57 MAY 19 195

"Crime and subversion have become critical challenges due to the mounting success of criminal and subversive elements in employing loopholes, technicalities, and delays in the law to defeat the interests of justice. Consider, for example, the vicious hoodlums who have been unleashed despite the weight of the evidence against them merely because of procedural errors.

"Earlier this year, one distinguished Federal judge (Hon. Warren E. Burger, United States Court of Appeals, District of Columbia Circuit) found cause to warn of what he considers--

20 MAY 16 1958

"*** an unfortunate trend of judicial decisions *** which wrests and stretch to give the guilty, not the same, but vastly more protection than the law-abiding citizen.

JPM:lae (4)
1 - Mr. Nease
1 - Mr. Belmont

63 MAY 21 1958

CRIME REC.

best copy available

[redacted]

[redacted] the brutal crime wave which is ravaging [redacted] only if the courts stop coddling and stop [redacted] and criminals on technicalities made of straw.

"I have the utmost respect for the independence of the judiciary. The judiciary is not, and never must become, a mere rubber stamp for the other branches of Government. But the courts themselves must also eventually come to grips in a realistic manner with facts and join all forces for good in protecting society. The late Justice Cardozo recognized this need when he said:

"But justice, though due to the accused, is due to the accuser also. The concept of fairness must not be strained till it is narrowed to a filament. We are to keep the balance true."

The foregoing is for your information.

V. P. Moore

best copy available

5-572 (9-29-55)
STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : The Director

DATE: 5-15-58

FROM : J. P. Mohr

SUBJECT: The Congressional Record

Pages 7766-7775, Senator Jenner, (R) Indiana, spoke concerning the perils of recent decisions of the Supreme Court. He commented on S. 2646, a bill be introduced to limit the appellate jurisdiction of the Supreme Court in certain cases. On pages 7774 and 7775, Mr. Jenner stated "Remember what has already been said about learning the facts of the Soviet conspiracy. We must learn the right things in order to do the right things. * * * The primary tool the people have used for learning the right things is the congressional or State legislative committee, which digs out the facts and puts them in the public record. The FBI cannot do it. Nobody else has done it. But what a price men have paid for doing it. The majority of the United States Supreme Court has pinned these committees to the wall with its decisions in Watkins, Sacher, Sweezy, and Raley, et al. against Ohio." He also made references to the FBI in connection with the Kremen and Jencks cases. These have been noted for your attention.

Original filed

162-275-85-

NOT RECORDED
167 JUN 2 1958

63 JUN 6 1958

In the original of a memorandum captioned and dated as above, the Congressional Record for 5-14-58 was reviewed and pertinent items were marked for the Director's attention. This form has been prepared in order that portions of a copy of the original memorandum may be clipped, mounted, and placed in appropriate Bureau case or subject matter files.

ORIGINAL COPY FILED IN

5-572 (5-29-55)

Office Memorandum • UNITED STATES GOVERNMENT

TO : The Director

DATE: 5/23/58

FROM : J. P. Mohr

Pages 8339-8342, Senator Jenner, (R) Indiana, extended his remarks to include an address by Mr. R. Carter Pittman of Dalton, Georgia, before the Demosthenian Literary Society of the University of Georgia on May 21, 1958. Mr. Pittman's address dealt with a number of recent decisions of the Supreme Court. Mr. Pittman commented on the Nelson, Slochower, Cole, Ben Gold, Yates, John Stewart Service, etc. cases. He stated "In the Service case (decided June 17, 1957) the Court denied to the Secretary of State the absolute discretion given to him by law to fire any employee in the interest of the United States. * * * In that particular case the FBI had a recording of a secret conversation between Service and the editor of a communistic magazine, made in the latter's hotel room. The defendant may yet be heard from that recording whispering about certain military plans of which he knew and which were 'very secret.'" Mr. Pittman went on to state "Eighteen of the cases listed above were cases in which the Supreme Court reversed the rulings of lower Federal courts or the highest courts of sovereign States. * * * No fair person can read those 20 cases without suspecting that there are at least 5 members of the Court who have a fellow feeling for Communists. What else can explain why they exhibit evidence of personal insult and wounded feelings when a Communist is assailed? Why they should be so solicitous about the welfare and safety of Communists is a question for determination by those in the Congress who have the duty and power to investigate. * * * If there is any man living today who should know something about the Communist conspiracy, that man should be John Edgar Hoover, Director of the Federal Bureau of Investigation. At the national convention of the American Legion in 1957, he alluded to some of the decisions of the Supreme Court which give aid and comfort to the Communist enemy, saying: 'We face a regenerated domestic branch of the international conspiracy, making plans to exploit recent Court decisions and highly optimistic for the future.'"

Original filed in: 62-27585-79

62-27585-1

NOT RECORDED
191 JUN 20 1958

53 JUN 25 1958

INITIALS ON ORIGINAL

In the original of a memorandum captioned and dated as above, the Congressional Record for 5-22-58 was reviewed and pertinent items were marked for the Director's attention. This form has been prepared in order that portions of a copy of the original memorandum may be clipped, mounted, and placed in appropriate Bufiles case or subject matter files.

6-19 (Rev. 10-29-57)

8 8

Tolson
Boardman
Belmont
Mohr
Nease
Parsons
Rosen
Tamm
Trotter
Clayton
Tele. Room
Holloman
Gandy

The Supreme Court: Rulings Handed Down

WASHINGTON, May 26 (UPI).—The Supreme Court today handed down a series of decisions relating to labor and civil rights. Other actions:

Restores Citizenship To Two in Red Cases

By a vote of 5 to 2, restored the United States citizenship of two foreign-born Detroit residents accused of concealing Communist affiliations during naturalization proceedings. The two are Polish-born Stanislaw Nowak, a former state senator, and Rebecca Maisenberg, a native of Russia.

Texas Ruling Upheld On Mothers Support

Left standing a Texas state court ruling that California cannot force a Texas resident to pay for the care of his indigent mother in a California state hospital. The case involved Dale W. Copus of Dallas.

Orders New Study On Custody Ruling

Ordered North Carolina state courts to reconsider in the light of a contrary New York state court ruling its decision to award the custody of twelve-year-old Jane Elizabeth Brewer to her grandfather, George A. Brewer sr., of Gaston, N. C.

Connecticut Slayer Denied a Hearing

Denied a hearing to Frank Wojulewicz, who is under death sentence in Connecticut following his conviction for the fatal shooting of two men during a 1951 robbery in New Britain. The state is now free to carry out the execution.

Agrees to Reconsider Decisions on Conviction

Agreed to reconsider its 4-to-4 decisions last Jan. 6 upholding the convictions of Lovander Ladner of Biloxi, Miss., and Alphonse Barktus of Chicago. Barktus was convicted of bank robbery and Ladner of assaulting two Federal agents.

Designates Agency In False Claims Suits

Ruled that the Commodity Credit Corporation, but not the Federal Housing Authority, may be a party to a suit between the government and a citizen under the False Claims Act.

b6, b7C

U. S. Supreme Court

162-21585-A
NOT RECORDED
199 JUN 4 1958

5-

Wash. Post and Times Herald
Wash. News
Wash. Star
N. Y. Herald Tribune
N. Y. Journal-American
N. Y. Mirror
N. Y. Daily News
N. Y. Times
Daily Worker
The Worker
New Leader

Date MAY 27 1958

57 JUN 9 1958

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : Mr. A. Rosen

DATE: May 27, 1958

FROM : [redacted]

SUBJECT: [redacted]
SUPREME COURT NAME CHECK REQUEST

Tolson
Nichols
Boardman
Belmont
Mohr
Parsons
Rosen
Tamm
Trotter
Nease
Tele. Room
Holloman
Gandy

[redacted] born [redacted] is subject of name check request received in Name Check Section on 3/26/58, from [redacted], Marshal, Supreme Court of the United States. The incoming Form 57 reflects [redacted] to be an applicant for a position of policeman with the Supreme Court.

Bufiles contain no information re [redacted]

Memorandum Nichols to Tolson dated 9/3/57, reflects that the Director has instructed that no action be taken concerning any requests received from the Supreme Court until the matter has been presented to him and he personally rules on the request.

RECOMMENDATION:

That if approved by the Director, the Form 57 be stamped, "No Derogatory Data," by the Name Check Section, Investigative Division, and returned to the Office of the Marshal, Supreme Court of the United States.

RECEIVED
MAY 28 1958
FBI

[redacted]
(4)

62-27585-109

REC-6

18 JUN 3 1958

60 JUN 6 1958

May 31-58

All your good ... To ... day. I ...

Routing
Mr. Tolson
Mr. Boardman
Mr. Belmont
Mr. Mohr
Mr. Nease
Mr. Parsons
Mr. Rosen
Mr. Tamm
Mr. Trotter
Mr. Clayton
Tele. Room
Mr. Holloman
Miss Gandy

Mr. J. Edgar Hoover
Federal Bureau.   Dear Mr Hoover
Washington D.C.   SUPREME COURT

We just lately returned from a 6 Months st[ay in]
Phoenix Arizona, and I will say this the talk
people congregate in, was a 100% for Edgar Hoo[ver]
I also was one in Chicago Tribune May 5. and when
it came out, what Supreme Court does   WB 107

The conversation, why have they done it, for fright
because when 5-6 of them were put on bench they
the Senate & Congress questioned them, what they
were, many of them kept quite.

The Conversation was if they would let the F.B.I
and Edgar Hoover alone, for years the Supreme Court
was O.K. till these new appointments.

The people spoke for F.B.I they should investigate the[ir]
doings and why.

EX-102   REC-77   62-[illegible]

I am one of thousands that believe you and your
Office should be taken apart from that group, ~~and take~~
care of it your self because the F.B.I ~~really investi~~   12 JUN 10 1958
I know one man, and he says your office really has
work to do, I for one only hope they keep you and your
organization and give you 100 ... now they are free
to hurt the U.S. God Bless all of you and good luck [redacted] Bellaire Michigan

ENCLOSURE

REC-77

mmcl ack 6/9/58 DCL   1 copy typed

b6, b7C

We get the Tribune every day & a [illegible] a copy to Arizona will say they are 100%. And better for your work

MR. JONES
JUN 4 2 32 PM '56
RECEIVED
F B I
U.S. DEPT OF JUSTICE

RECEIVED NEASE
F B I
JUN 4 12 30 PM '56

EX-105

15 JUN 10 1956

JUN 4 12 17 PM '56

RECEIVED-DIRECTOR
F B I
JUN 4 11 52 AM '56

JUN 4 12 15 PM '56

6-4

TRUE COPY

All your good time wasted
To bad Senator McCarthy passed away.
I was glad to help

May 31-58.

Mr. J. Edgar Hoover
Federal Bureau.

Dear Mr Hoover.

Washington D.C.

We just lately returned from a 6 Months trip to Phoenix Arizona, and I will say this talk at place people congregate in, was a 100% for Edgar Hoover. I also was one in Chicago Tribune May 5. and when it came out, what Supreme Court does
The conversation, why have they done it, for fright because when 5-6 of them were put on bench they the Senate & Congress questioned them, what they were, many of them kept quite.

The Conversation was if they would let the F.B.I. and Edgar Hoover alone, for years the Supreme Court was, O.K. till these new appointments.

The people spoke for F.B.I. they should investigate there doings and why.

I am one of Thousands that believe you and your Office should, be taken apart from that group and take care of it your self because the F.B.I really investigate I new one man, and he says your office really has work to do. I for one only hope they keep you and your orgenization and give you 100 more men, now they are free to hurt the U.S. God Bless all of you and good luck

b6, b7C

/s/ [redacted]
Bellaire Michigan

mmd
ack 6/9/58
RCL

1 copy Typed
6/13/56
gpa

MAIL ROOM

HIGH COURT'S STAND CALLED UNREALISTIC

Decries Loopholes in U. S. Law

BY WILLARD EDWARDS
(Chicago Tribune Press Service)

Washington, May 4—Noting that Supreme court decisions have freed 49 communist

Hoover

party leaders, J. Edgar Hoover, director of the Federal Bureau of Investigation, told congress in testimony made public today:

[illegible] continually [illegible] grips on a realistic manner [illegible] facts and join all [illegible] protecting [illegible]

Hoover also criticized the release of "vicious hoodlums and criminals" because of technicalities in legal procedure. He quoted a federal judge who warned against "an unfortunate trend of judicial decisions . . . which strain and stretch to give the guilty not the same but vastly more protection than the law abiding citizen."

Hits at "Loopholes"

"Crime and subversion have become critical challenges due to the mounting success of criminal and subversive elements in employing loopholes, technicalities, and delays in the law to defeat the interests of justice," Hoover told a House appropriations subcommittee at a closed door hearing Jan. 16. He appeared in support of a request for funds to run the FBI in the coming fiscal year.

Hoover said federal juries since 1949 had returned guilty verdicts against 108 Communist party leaders under the conspiracy and membership provisions of the Smith act which forbids the teaching and advocacy of the forcible overthrow of the government.

Sees Party Rejuvenation

As a result of Supreme court decisions, only 59 of these guilty verdicts have been allowed to stand, and 49 Communists have been set free, he told the subcommittee.

"A top communist func-

(Continued on page 2, col. 1)

FBI HEAD HITS REDS' RELEASE BY HIGH COURT

Decries Loopholes in Protective Laws

Continued from first page

January, while [illegible] Supreme court decision of June 17, 1957, which ordered the acquittal of five California Smith act subjects and retrial of the remaining nine, commented that this was 'the greatest victory the Communist party in America has ever received,'" Hoover testified.

"This decision will mark a rejuvenation of the party in America," the communist leader continued, according to Hoover. "We've lost some members in the last few years, but now we're on our way again."

Chicago Daily Tribune
Monday, May 5, 1958
Part 1—Page 2

62-27585-110

ENCLOSURE

[illegible] Judiciary

Hoover quoted Justice John C. Bell Jr., of the Pennsylvania Supreme court, in a recent dissenting opinion, as expressing "common sense realism" when he wrote:

"The brutal crime wave which is sweeping and appalling our country can be halted only if the courts stop coddling and stop freeing murderers, Communists, and criminals on technicalities made of straw."

Hoover did not comment directly on legislation reported last week by the Senate judiciary committee which is designed to overcome the effects of Supreme court decisions in anti-communist cases. He said the judiciary must remain independent and never become "a mere rubber stamp for other branches of the government."

But he quoted approvingly an opinion by the late Supreme Court Justice Cardozo that "justice, tho due to the accused, is due to the accuser also. The concept of fairness must not be strained till it is narrowed down to a filament."

Growing Red Front Peril

Hoover said the communist conspiracy in the United States, despite a reduction in party membership, continues at full strength in its "vicious, behind the scenes operations." Those who have resigned from the Communist party, he said, remain Marxists who are still willing to coöperate when needed.

The danger of communist fronts, organizations under secret communist leadership which enlist well-mean- [illegible]

"We have approximately [illegible] known or suspected communist-front and communist-infiltrated organizations [illegible] investigation," [illegible]

"The influence of the communist conspiracy reaches into every walk of life. To gauge its effect, we need only note the widespread clamor which is raised whenever our government attempts to deal firmly in self-defense against the communist threat.

"Certain organizations hypocritically bar Communists from their membership, but they seek to discredit all persons who abhor Communists and communism. They claim to be anti-communist but they launch attacks against congressional legislation designed to curb communism."

Decries Pseudo Liberalism

"Sadly, the cult of the pseudo liberal, which is anything but liberal, continues to float about in the pink-tinted atmosphere of patriotic irresponsibility; and remains strangely silent when another nation such as Hungary is pillaged, plundered, and reduced to virtual serfdom by barbaric communism.

"Every pseudo liberal in this country should look inside his heart and give heed to the destruction he may be bringing upon the very country that permits him to enjoy this very freedom of thought."

Russia, under cover of a "peace front," has stepped up its spying efforts in the United States, Hoover said. He cited the recent conviction of Rudolf I. Abel, a soviet agent who operated a photographic studio in Brooklyn.

"I mention this case particularly, because there are some people who think that the matter of soviet espionage is a thing of the past," Hoover commented. "This occurred in 1957. Moreover, these acts of espionage are often barred from disclosure in public trials which would compromise classified information and thus defeat the very purpose for which the espionage statutes were enactetd."

REC-77
EX-102 62-27585-110

June 9, 1958

[redacted]
Bellaire, Michigan

b7C, 66

Dear [redacted]

Your letter dated May 31, 1958, with enclosure, has been received, and I want to thank you sincerely for your kind message and the clipping you made available.

It is reassuring to know that we have your support, and it is my hope that our performance of duty will continue to merit your esteem.

Sincerely yours,

J. Edgar Hoover

NOTE: Correspondent is not identifiable in Bufiles. (Search not limited)

[redacted] (3)

b7C, 66

MAILED
JUN 9 - 1958
COMM-FBI

JUN 9 10 53 AM '58
REC'D-READING ROOM
F B I

Tolson
Boardman
Belmont
Mohr
Nease
Parsons
Rosen
Tamm
Trotter
Clayton
Tele. Room
Holloman
Gandy

92 JUN 17 1958
MAIL ROOM

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO: Mr. A. Rosen

DATE: June 16, 1958

FROM: [redacted]

SUBJECT: [redacted]
SUPREME COURT NAME CHECK REQUEST

Tolson
Nichols
Boardman
Belmont
Mohr
Parsons
Rosen
Tamm
Trotter
Nease
Tele. Room
Holloman
Gandy

[redacted] born [redacted], is subject of name check request received in Name Check Section on June 13, 1958 from [redacted] Marshal, Supreme Court of the United States. The incoming Form 57 reflects [redacted] to be an applicant for a position of part-time charman with the Supreme Court.

Bufiles contain no information re [redacted]

Memorandum Nichols to Tolson dated 9/3/57 reflects that the Director has instructed that no action be taken concerning any requests received from the Supreme Court until the matter has been presented to him and he personally rules on the request.

RECOMMENDATION:

That if approved by the Director, the Form 57 be stamped "No Derogatory Data" by the Name Check Section, Investigative Division, and returned to the Office of the Marshal, Supreme Court of the United States.

Form to be stamped & returned to Supreme Court 6-17-58 WFO

[redacted] (4)

REC-98 62-27585-111

JUN 18 1958

63 JUN 20 1958

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : Mr. Nease

DATE: 5-20-58

FROM : Mr. Jones

SUBJECT: "Nine Men Against America"
By Rosalie M. Gordon

Tolson
Nichols
Boardman
Belmont
Mohr
Parsons
Rosen
Tamm
Trotter
Nease
Tele. Room
Holloman
Gandy

The attached book by Rosalie M. Gordon was forwarded to the Bureau by the Devin-Adair Company of New York City without cover letter. This book is subcaptioned "The Supreme Court and Its Attack on American Liberties" and is a strong attack against the Supreme Court. It is quite probable that any reply might be used as an endorsement and it is not felt that acknowledgement is in order.

Miss Gordon is identified as the long-time assistant of John T. Flynn, the American Firster who we have, of course, always dealt with most circumspectly. There are several references to the Bureau and Crime Records will review these for the sake of accuracy.

[redacted] b7C b6

(2)
Enclosure

ENCLOSURE

EX 107

REC- 31 62-22585-112

EX 107

6 JUN 20 1958

[redacted]

CRIME REC.

66 JUN 25 1958

4-750 (Rev. 4-17-85)

XXXXXX
XXXXXX
XXXXXX

FEDERAL BUREAU OF INVESTIGATION

FOIPA DELETED PAGE INFORMATION SHEET

_____ Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

☐ Deleted under exemption(s) _____ with no segregable material available for release to you.

☐ Information pertained only to a third party with no reference to you or the subject of your request.

☐ Information pertained only to a third party. Your name is listed in the title only.

☐ Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

_____ Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

_____ Page(s) withheld for the following reason(s):

_____

_____

☒ For your information: This enclosure is a book titled "Nine Men Against America" by Rosalie [illegible] and was not uploaded to case file.

☒ The following number is to be used for reference regarding these pages:
62-27585-112 Enclosure

XXXXXXXXXXXXXXXXXXX
X DELETED PAGE(S) X
X NO DUPLICATION FEE X
X FOR THIS PAGE X
XXXXXXXXXXXXXXXXXXX

XXXXXX
XXXXXX
XXXXXX

FBI/DOJ

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : Mr. Nease

DATE: June 12, 1958

FROM : M. A. Jones

Tolson
Boardman
Belmont
Mohr
Nease
Parsons
Rosen
Tamm
Trotter
Clayton
Tele. Room
Holloman
Gandy

SUBJECT: "NINE MEN AGAINST AMERICA"
BY ROSALIE M. GORDON

SYNOPSIS:

Above-captioned book has subtitle, "The Supreme Court and Its Attack on American Liberties." Thesis of book is that recent "liberal" decisions of Supreme Court have been handed down by politicians rather than jurists and that members of present court lack judicial background and experience. Gordon also claims that many of Supreme Court decisions made with an eye to "minority" votes and have in fact usurped the legislative functions of government and accordingly menaced our fundamental liberties. Gordon discusses various Justices on Supreme Court and claims court has been "packed." Claims court has continued decline during Eisenhower administration. Denounces recent decisions as putting central government directly into public school systems of the Nation. Also asserts that Warren Supreme Court has struck down practically every bulwark Nation possesses against communist conspiracy. "In doing so, it continued to wipe out state lines and actually to leave the sovereign states helpless in the face of subversion." Gordon identified as Research Assistant for 25 years to John T. Flynn. Flynn is veteran writer and lecturer on anti-communist topics. The Director and FBI mentioned number of times. Nothing derogatory.

RECOMMENDATION:

None. For information.

Enclosure

[redacted]

(5)

REC- 31 62-22725-113

JUN 20 1958

EX 105

66 JUN 25 1958

CRIME REC.

M. A. Jones to Mr. Nease Memorandum

DETAILS:

Author:

The above-captioned book, published by the Devin - Adair Company, New York, is subtitled "The Supreme Court and Its Attack on American Liberties. The dust cover describes Gordon as a Research Assistant to John T. Flynn, for 25 years. Flynn is identified as a "veteran pamphleteer." She previously had written a pamphlet entitled "Nine Men Against America" of which the above-captioned book is an expansion. This pamphlet, as well as another written by her entitled "What's Happened to Our Schools?," have previously come to the attention of the Bureau. Bufiles reflect that Flynn is a lecturer, an author who specializes in anti-communist topics.

[redacted]

Theme of Book:

The theme of "Nine Men Against America" is set forth in the book's dust cover in these words:

> "It is the thesis of this book that the recent 'liberal' decisions of the Supreme Court have been handed down by politicians rather than jurists; that the members of the present Court are almost wholly without judicial background and experience; that many of their decisions, made with an eye to 'minority' votes, have in fact usurped the legislative function and menaced our fundamental liberties.
>
> "Starting with 1937, Miss Gordon shows how the makeup of the Court has gradually but noticeably been changing. She shows how and why the Court has been 'packed,' and the shocking results that have followed. She discusses the further decline of the Court during the Eisenhower administration. The present Court, she says, is usurping the function of Congress by passing laws rather than interpreting them. Hopefully, however, Miss Gordon discusses the various methods which have been proposed to

The book, in fact, very seriously criticizes the Supreme Court, both in regard to the Justices themselves and the decisions rendered. Some of the typical comments are set forth below:

> "All this and very much more - actual assaults on the liberties of Americans and on their means of protecting themselves against tyranny from within and without - has been brought about by a Supreme Court composed of nine men - nine men against 170 million Americans." (P. 7)

> "There is only one legal way in which the Constitution can be changed - by amendment initiated by the sovereign states or by the Congress and concurred in by three fourths of the states. These nine judges simply usurped the powers of the states and the people's representatives and tore to pieces the charter of freedom of the American people." (P. 52-53)

> "One decision continued to follow another from the packed Court, each of them designed to break down further the constitutional bars against growing usurpations by the Washington government. The remaining years of the Roosevelt regime and those of the Truman 'Fair Deal' saw generally a continuation of the same type of Supreme Court appointments and, with one or two exceptions, the same type of major decisions." (P. 62)

> "But so far as the Supreme Court's decision in the segregation cases is concerned, the socialist revolutionaries in America now have what they want - the opening wedge for complete control of education by the central government." (P. 89)

> "These were the men - Warren, Minton, Clark, Burton, Jackson, Douglas, Frankfurter, Reed, and Black - who, on the 'authority' of a batch of left-wing nobodies, did what no Congress of the United States had ever permitted. They put the hand of the central government directly into the public school systems of the American states." (P. 103)

"Before we go into the shocking aid which the justices of the Supreme Court have rendered to the communist conspiracy in America, it might be well to take a look behind those black robes at what are known as the 'bright young men.'" (P. 110)

"In the years following the segregation decision - and particularly in the last year or two - the Warren Supreme Court struck down practically every bulwark we have raised against the communist conspiracy in America. In doing so, it continued to wipe out state lines and actually to leave the sovereign states helpless in the face of subversion." (P. 118)

"Thus the Warren Court wound up its 1956-1957 session. In the three years up to and including that term - three years with Mr. Eisenhower's Chief Justice at the head of the Court - it issued at least fifteen decisions designed to put the meddling fingers of the federal politicians further into state affairs, and to break down completely all our defenses against the communist conspirators in our midst." (P. 130-131)

Mention of FBI and Director:

The FBI and the Director are mentioned a number of times in the book. None of the references were derogatory, in fact, Gordon attacks Supreme Court decisions which, in her opinion, handicap the work of the FBI. A copy of "Nine Men Against America" is attached.

Attached

5-872 (5-29-56)

Office Memorandum • UNITED STATES GOVERNMENT

TO : The Director

DATE: 6-13-58

FROM : J. P. Mohr

SUBJECT: The Congressional Record

Pages A5403-A5406, Congressman Neal, (R) West Virginia, extended his remarks to include an article which appeared in the February issue of the Daughters of the American Revolution magazine entitled "Education for What -Suicide or Survival—Bravo, Patriots" written by Jessica Wyatt Payne, a member of the West Virginia Legislature. Mrs. Payne stated "If we believe the historical promise 'Know the truth and the truth will make you free,' then our greatest contribution to the saving of the nation is to establish the truth about any and all situations or activities in government, schools, unions, churches, and clubs which wittingly, or unwittingly, become a channel for Communist and/or fascist infiltration and propaganda. • • • If we are afraid, because of intimidation, or public reaction, to speak the truth, or, write it under our own name we are aiding and abetting the wrong side of any controversy. • • • However, if no protests or exposé were made these atheist conspirators and their dupes would overthrow this Republic. In fact, by taking advantage of our silence gives consent attitude they have already successfully infiltrated and influenced our foreign affairs and domestic legislation. Even the Supreme Court hands down decisions favorable to the Communists and detrimental to the FBI and America's best interests."

Original filed in:

NOT RECORDED
191 JUN 26 1958

62 JUL 2 1958

In the original of a memorandum captioned and dated as above, the Congressional Record for 6 - 13 - 58 was reviewed and pertinent items were marked for the Director's attention. This form has been prepared in order that portions of a copy of the original memorandum may be clipped, mounted, and placed in appropriate Bureau case or subject matter files.

A-572 (3-29-55)
STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : The Director

DATE: 6-13-58

FROM : J. P. Mohr

SUBJECT: The Congressional Record Supreme Court

Pages A5380-A5384, Congressman Multer, (D) New York, extended his remarks to include an article by Maxwell Brandwen, member of a prominent New York firm of attorneys, entitled "The Supreme Court--Current Criticism in Perspective" which appeared in the May 24, 1958, issue of the Nation. Mr. Brandwen commented on the attacks against the Supreme Court. He stated, in connection with the Jencks decision, "From the cascade of press comment, one would have supposed that the Court had announced a startlingly revolutionary doctrine. Quite the contrary. It is an old, well-established rule of law that a party to any litigation may discredit the testimony of an opposing witness. * * * In the Jencks case, the Court permitted such examination and comparison. That is the core of its decision." The references to the FBI have been noted. Mr. Brandwen went on to state "The Court, at times, undoubtedly has erred. The Congress, at times, has erred, too. The intelligent judgment of a future day may correct an erroneous decision of today, but political control of judicial decisions might open the floodgates to all manner of evils which could be corrected only by the greater sacrifices of human dignity and even of human life. History has shown that the Court is concerned with, and is capable of, correcting its own errors and that it has served its historic purpose in protecting individual liberties from overzealous legislators and misguided Executive action."

Original filed in: 66-12181-1518

REC-3 [illegible]-114

NOT RECORDED
191 JUN 26 1958

52 JUL 2 1958

1 auto copy
6-26-58

In the original of a memorandum captioned and dated as above, the Congressional Record for 6-[illegible] was reviewed and pertinent items were marked for the Director's attention. This form has been prepared in order that portions of a copy of the original memorandum may be clipped, mounted, and placed in appropriate Bureau case or subject matter files.

DO-6

File

OFFICE OF DIRECTOR
FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE

Mr. Tolson
Mr. Boardman
Mr. Belmont
Mr. Mohr
Mr. Nease
Mr. Parsons
Mr. Rosen
Mr. Tamm
Mr. Trotter
Mr. Jones
Mr. Clayton
Tele. Room
Mr. Holloman
Miss Holmes
Miss Gandy
W. C. Sullivan

Attached book "Nine Men Against America" by Rosalie M. Gordon, was sent to the Director from the Devin-Adair Company, 23 East 26th Street, New York 10, New York. Book pertains to the Supreme Court and its attack on American liberties.

Director is mentioned on following pages: 59, 60, 144

FBI is mentioned on following pages: 5, 76, 77, 108, 109, 125, 127, 145, 156

edm

ENCLOSURE

REC-18

REC-18 62-27585-115

EX-117

NOT RECORDED
23 JUL 1 1958

See file 62-27585-112
Book encl. to this file
Memo from Jones to Tamm
HPL:pcb
5-16-58

CRIME REC

117

63 JUL 9 1958

Editorial Copy

WITH THE COMPLIMENTS OF

The DEVIN-ADAIR Company

23 EAST 26TH STREET, NEW YORK 10, N. Y.

This copy carries with it permission to quote in a periodical or radio review up to 750 words, provided full credit is given to title, author, and publisher. All other permissions to quote from this book for any purpose whatsoever must be requested and secured in writing from the publisher.

Please send two clippings or copies of your review.

PUBLICATION:

[illegible] 1952

ENCLOSURE

115

4-750 (Rev. 4-17-85)

XXXXXX
XXXXXX
XXXXXX

FEDERAL BUREAU OF INVESTIGATION
FOIPA DELETED PAGE INFORMATION SHEET

_____ Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

☐ Deleted under exemption(s) _____ with no segregable material available for release to you.

☐ Information pertained only to a third party with no reference to you or the subject of your request.

☐ Information pertained only to a third party. Your name is listed in the title only.

☐ Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

_____ Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

_____ Page(s) withheld for the following reason(s):

_____

_____

☒ For your information: This serial was previously released to you regarding another matter - Earl Warren, released on 2/27/85

☒ The following number is to be used for reference regarding these pages:
62-27585-116

XXXXXXXXXXXXXXXXXX
X DELETED PAGE(S) X
X NO DUPLICATION FEE X
X FOR THIS PAGE X
XXXXXXXXXXXXXXXXXX

XXXXXX
XXXXXX
XXXXXX

FBI/DOJ

XXXXXX
XXXXXX
XXXXXX

FEDERAL BUREAU OF INVESTIGATION

FOIPA DELETED PAGE INFORMATION SHEET

_____ Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

☐ Deleted under exemption(s) _____ with no segregable material available for release to you.

☐ Information pertained only to a third party with no reference to you or the subject of your request.

☐ Information pertained only to a third party. Your name is listed in the title only.

☐ Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

_____ Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

_____ Page(s) withheld for the following reason(s):

_____

_____

☒ For your information: This serial was previously released to you regarding another matter. Enclosure(s) released 6-20-12 [illegible]

☒ The following number is to be used for reference regarding these pages:
62-27585-117

XXXXXXXXXXXXXXXXXXX
X DELETED PAGE(S) X
X NO DUPLICATION FEE X
X FOR THIS PAGE X
XXXXXXXXXXXXXXXXXXX

XXXXXX
XXXXXX
XXXXXX

FBI/DOJ

The Court Fashioned A Key

The JENCKS case decision which Supreme Court Justice CLARK asserted "opens up a veritable PANDORA'S box of troubles" has been used as a lever to get a gangster's widow and her mother out of a Federal prison.

They are KATHRYN KELLY, widow of the late GEORGE 'Machine Gun' KELLY, Memphis hoodlum, and her mother, Mrs. ORA SHANNON.

Twenty-five years ago they were convicted of participating in the CHARLES F. URSCHEL kidnaping—one of the most sensational cases of the kidnaping era. URSCHEL was held captive for nine days at an isolated farm and $200,000 was paid for his release. KELLY, one of the kidnapers, was arrested in Memphis and died three years ago in prison.

The ironic thing about the release of mother and daughter is that as a result of a Supreme Court ruling they could, after a quarter century of confinement, make a simple claim of violation of constitutional rights and get away with it.

The JENCKS 5-to-3 decision, briefly put, requires the Government to produce relevant but secret files in criminal cases or dismiss the charges. It has caused havoc and confusion in Federal courts from one end of the country to another and in many instances has hamstrung United States attorneys in their prosecutive efforts.

It provided Mrs. KELLY and her mother with an opportunity to claim that their attorneys and witnesses had been intimidated by the FBI and that FBI records should be made available to determine that fact.

Attorney General ROGERS refused to authorize disclosure of the records as "not in the public interest." Federal District Judge WALLACE of Oklahoma City thereupon approved a motion vacating their sentences and ordered them released on $10,000 bond, pending new trials which may never be held.

Mrs. KELLY is 54 and her mother 70. Admittedly, the best years of their lives have been spent in prison and it could be that the punitive needs of justice have been met. What is disturbing is that the JENCKS decision could be used effectively to negate a fair conviction that had stood unchallenged successfully for a quarter century. It opens up a prospect of release for every Federal criminal who might choose to invoke it.

In his vigorous dissent to the JENCKS decision Justice CLARK, a former Attorney General, said that it afforded to the criminal "a Roman holiday for rummaging through confidential information as well as vital national secrets."

For the Government to attempt to gain a new conviction against two women well up in years and who had already been long in prison would put it in an almost persecutive light. Many, if not most, of the Government's witnesses as to a crime committed a quarter century ago are probably no longer available. All this along with the Government's adamant position as to the sanctity of FBI files made the outcome of the women's use of the capricious and mischievous JENCKS decision almost a foregone conclusion.

The Supreme Court majority had fashioned a key which can open the doors of the nation's prisons and they used it.

Mr. Tolson
Mr. Boardman
Mr. Belmont
Mr. Mohr
Mr. Nease
Mr. Parsons
Mr. Rosen
Mr. Tamm
Mr. Trotter
Mr. W.C. Sullivan
Tele. Room
Mr. Holloman
Miss Gandy

THE COMMERCIAL APPEAL
MEMPHIS, TENNESSEE
6-23-58

Send copies to A.G. & Walsh.

Ltr to AG 7-2-58

62-27585-

ENCLOSURE

SEARCHED ... INDEXED ...
SERIALIZED ... FILED ...
FBI MEMPHIS

ENCLOSURE

The Attorney General

July 2, 1958

Director, FBI

EDITORIAL FROM "COMMERCIAL APPEAL," MEMPHIS, TENNESSEE

Enclosed is a copy of an editorial entitled "The Court Fashioned A Key" which appeared in the June 28, 1958, edition of the "Commercial Appeal," Memphis, Tennessee, relating to the Jencks case. I thought this might be of interest to you.

Enclosure

SUPREME COURT

1 - Mr. Lawrence E. Walsh
Deputy Attorney General (Enclosure)

62-27585

NOT RECORDED
102 JUL 16 1958

REC'D-READING ROOM
JUL 2 10 27 AM '58
FBI

1 ENCLOSURE

JUL 15 1958

(6)

ENCLOSURE

JUL 2 - 1958

Tolson
Boardman
Belmont
Mohr
Nease
Parsons
Rosen
Tamm
Trotter
Clayton
Tele. Room
Holloman

JUL 18 1958

5-572 (9-29-55)
STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : The Director

DATE: 7/17/58

FROM : J. P. Mohr

SUBJECT: The Congressional Record

Pages A5411-A5418, Congressman Abernethy (D) Mississippi,

extended his remarks to include an editorial entitled "Let Us Take Stock" which appeared in a recent edition of the Cotton Trade Journal. The editorial states "The point from which we have departed is the Constitution of the United States." * * * "Just how far we have departed from constitutional principles may be seen at a glance in reviewing the record of the United States Supreme Court." The editorial further points out "There was the decision of the Warren Court opening FBI files to attorneys for Communists." p A5413

Original filed

62-27585-N

NOT RECORDED
191 JUL 23 1958
INITIALS ON ORIGINAL

57 JUL 28 1958

In the original of a memorandum captioned and dated as above, the Congressional Record for 7/16/58 was reviewed and pertinent items were marked for the Director's attention. This form has been prepared in order that portions of a copy of the original memorandum may be clipped, mounted, and placed in appropriate Bureau case or subject matter files.

5-572 (5-29-55)
STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : The Director

DATE: 7-22-58

FROM : J. P. Mohr

SUBJECT: The Congressional Record

SUPREME COURT

Page A6501 Senator Thurmond, (D) South Carolina, in commenting ~~on H. R. 3~~, a bill to establish rules of interpretation governing questions of the effect of Acts of Congress on State laws, pointed out that the Department of Justice is opposed to this bill.

Pages A6533-A6534 Congressman Vanik, (D) Ohio, extended his remarks to include an editorial from the New York Times of July 21, 1958, entitled "Another Attack at the Court." This editorial deals with H. R. 3 which was passed by the House on July 17, 1958. It is stated in the editorial "What the House was doing by passing this vindictive bill was to take a crack at the Supreme Court because the latter has handed down a number of decisions of which certain people disapprove, particularly in the field of civil liberties. The measure endorsed by the House is bad in purpose and worse in content, and is no credit to the 241 members who, astonishing as it may seem, voted for it."

Original filed in:

99 REC 62-27585-118

NOT RECORDED
149 JUL 31 1958

5.7 AUG 5 1958

In the original of a memorandum captioned and dated as above, the Congressional Record for [illegible] was reviewed and pertinent items were marked for the Director's attention. This form has been prepared in order that portions of a copy of the original memorandum may be clipped, mounted, and placed in appropriate Bureau case or subject matter files.

5-572 (5-29-55)

Office Memorandum • UNITED STATES GOVERNMENT

TO : The Director

DATE: 7-17-58

FROM : J. P. Mohr

Pages 12745-12774	The House continued consideration of H. R. 1, to establish rules of interpretation governing questions of the effect of acts of Congress on State laws. References to the Director contained in this discussion were set forth in an earlier memorandum.
Page A6408	Congressman Abernethy, (D) Mississippi, extended his remarks to include an editorial from a recent edition of the U. S. News & World Report entitled "Legalizing Treason?" which was written by David Lawrence. This editorial deals with the Supreme Court decision regarding the issuance of passports. It is stated in the editorial "The Court, moreover—even in the face of world conditions today—insists that membership in the international Communist movement is merely a political belief and association. This means that the Court is not concerned with acts of treason a citizen may commit while he is traveling abroad. The Government of the United States, knowing of his errand, would be powerless to restrain anyone making frequent trips back and forth to contact enemy agents abroad." The editorial further points out "If the Supreme Court had ruled that treason now is lawful, it could not have dealt a more devastating blow to the safety of the people of America than it did in the 5-to-4 decision ordering passports issued to any person of American citizenship irrespective of his loyalty to the United States."

Original Filed in:

REC-23 62-27585-119

NOT RECORDED

149 JUL 31 1958

EX-136

INITIAL ~~ORIGINAL~~

In the original of a memorandum captioned and dated as above, the Congressional Record for 7-16-58 was reviewed and pertinent items were marked for the Director's attention. This form has been prepared in order that portions of a copy of the original memorandum may be clipped, mounted, and placed in appropriate Bureau case or subject matter files.

XXXXXX
XXXXXX
XXXXXX

FEDERAL BUREAU OF INVESTIGATION
FOIPA DELETED PAGE INFORMATION SHEET

3 Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

☐ Deleted under exemption(s) _____ with no segregable material available for release to you.

☐ Information pertained only to a third party with no reference to you or the subject of your request.

☐ Information pertained only to a third party. Your name is listed in the title only.

☒ Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

_____ Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

_____ Page(s) withheld for the following reason(s):

_____

_____

☐ For your information: _____

_____

☒ The following number is to be used for reference regarding these pages:
62-27585-120

XXXXXXXXXXXXXXXXXXX
X DELETED PAGE(S) X
X NO DUPLICATION FEE X
X FOR THIS PAGE X
XXXXXXXXXXXXXXXXXXX

XXXXXX
XXXXXX
XXXXXX

STANDARD FORM NO. 64

Office Memorandum · UNITED STATES GOVERNMENT

TO : Mr. A. Rosen

DATE: August 8, 1958

FROM :

SUBJECT: SUPREME COURT NAME CHECK REQUEST

Tolson
Boardman
Belmont
Mohr
Nease
Parsons
Rosen
Tamm
Trotter
Clayton
Tele. Room
Holloman
Gandy

born is the subject of a name check request received in Name Check Section on August 7, 1958, from , Marshal, Supreme Court of the United States. The incoming Form 57 reflects to be an applicant for a position of policeman with the Supreme Court.

Bufiles contain no information re

Memorandum Nichols to Tolson dated September 3, 1957, reflects that the Director has instructed that no action be taken concerning any requests received from the Supreme Court until the matter has been presented to him and he personally rules on the request.

RECOMMENDATION:

That if approved by the Director, the Form 57 be stamped "No Derogatory Data" by the Name Check Section, Investigative Division, and returned to the Office of the Marshal, Supreme Court of the United States.

REC- 39 62-22585-121

AUG 13 1958

57 AUG 15 1958

5-572 (9-29-55)
STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : The Director

DATE: August 21, 1958

FROM : J. P. Mohr

SUBJECT: The Congressional Record

Pages 17178-17228 — The Senate discussed bill S. 2646 to limit the appellate jurisdiction of the Supreme Court in certain cases. The references to the FBI and the Director contained on pages 17214-17215, 17217, and 17224 were brought to your attention in a memorandum prepared earlier today.

62-27585-1
NOT RECORDED
176 SEP 12 1958

Original filed in 94-1-1721-1544

SEP 18 1958

In the original of a memorandum captioned and dated as above, the Congressional Record for August 20, 1958 was reviewed and pertinent items were marked for the Director's attention. This form has been prepared in order that portions of a copy of the original memorandum may be clipped, mounted, and placed in appropriate Bureau case or subject matter files.

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : MR. TOLSON

DATE: August 22, 1958

FROM : G. A. NEASE

SUBJECT: SENATOR HENNINGS' COMMENTS RE SENATE BILL 2646

The Congressional Record for August 20, at the request of Senator Jenner, carries the complete legislative history of Senate Bill 2646 (commonly referred to as the Jenner-Butler Bill) designed to limit the appellate jurisdiction of the Supreme Court in certain cases. This review is some 55 pages in length.

Senator Hennings, sharply critical of the provisions, claimed that the third provision of this Bill would "revitalize state laws which proscribe sedition against the Federal Government" and said that this proposal would allow the state to interfere and hamper effective enforcement of the Federal statutes in this area. He went on to state "Because of the interstate nature of the communist movement, it can best be combated by a uniform policy under centralized control." He then said, "I believe it can be best combated, as it is being combated, by no less a person than J. Edgar Hoover, the friend of many of us, and admired by all who know him and by many who do not."

Hennings' remarks must be considered in light of his ill-considered remarks last May about subpoenaing the Director in connection with the Bureau's wiretapping policy. It is suspected that he now regrets having made such remarks last May. No letter is being sent to Hennings.

1 - Mr. Jones

GAN:ejp
(3)

1 ENCLOSURE

REC-67 EX-135

62-27585-122

17 AUG 28 1958

SENT DIRECTOR 8-23-58

7 SEP 2 1958

Mr. HENNINGS. At the first hour this morning the Senator from Indiana qualified his bill by exempting considerations of race, creed, and color. There was another [illegible] provision which was handed to us just as we came into the Chamber this morning and the matter could only be considered for the first time after the morning hour.

A brief statement respecting each provision might be very helpful at this point.

The first provision would take from the Supreme Court its power to review denials of admission of lawyers to State bars. This provision is contrary to our historic principle that the Supreme Court should have the final word as to the constitutionality of governmental action. It would be a legislative decree to the Supreme Court that it should render decisions which are politically popular or it will lose its power to review such cases. It would send out the word to the Supreme Court that it had better behave itself and had better hand down the right decisions; that it had better decide cases as we want them decided, or we will take care of the Court, we will take away some of the Court's power, some of its authority, some of its jurisdiction.

Mr. President, once that door has been opened, once we begin to whittle at the jurisdiction of the Supreme Court, the floodgates will be open. Then heaven [illegible]

[illegible] the Federal courts in a trial for contempt of Congress. Congress has placed upon the Federal courts the duty of punishing for contempt of Congress. Pertinency of the question asked by a committee has been established by the Congress as an essential element of the crime. In my opinion, all elements of a crime should be decided judicially by the Court and the jury. It is, indeed, unwise if not unconstitutional for Congress to make a final determination of such an element of the crime of contempt. It would be the same as allowing a prosecutor to determine whether the questions they themselves have asked are proper.

In addition, this provision is completely ambiguous, as indicated by the Senate report on S. 2646, as amended.

I commend, to those who may run and read, a reading of the dissenting views as well as the majority views in the report.

The third provision would revitalize State laws which proscribe sedition against the Federal Government. The Pennsylvania Supreme Court in holding that the Federal law preempted the field presented a strong argument not only as to preemption but as to the wisdom of preemption. This proposal would allow the State to interfere and hamper effective enforcement of the Federal statutes in this area. Because of the interstate nature of the Communist movement it can best be combated by a uniform policy under centralized control. I believe it can be best [illegible] as it is being combated, by no less a person than J. Edgar Hoover, the friend of many of us, and admired by all who know him and by many who do not. This danger can best be combated under a uniform policy, under centralized control; not by prosecuting attorneys in the State, running hither and yon, to track down people whom they may think are a little strange, a little odd, a little unorth[illegible] who may perhaps even be Commu[illegible] Who can say where that kind of ac[illegible] would lead? It is perfectly obviou[illegible] many innocent persons would be [illegible] to book, harassed, and harried be[illegible] some prosecuting attorney decid[illegible] wanted to get his name into the [illegible] papers and make a great big splas[illegible] the front page to the effect that he [illegible] great Communist hunter.

The third provision in the bill w[illegible] permit also premature [illegible] harmful advance disclosure of evid[illegible] In my opinion, this provision would [illegible] help our Nation in its fight against [illegible] version but would to the contrary be [illegible] rimental.

The last provision of the bill is [illegible] lusts in bad legal draftmanship. [illegible] language of subsection (a) is almost [illegible] believably bad.

[illegible] The provision begins in a most [illegible] [illegible] by mentioning [illegible] United States, [illegible] against United States, and so forth, and proceeds to include a direct quotation, a phrase from the Court's opinion, identifying the author by name—Mr. Justice Harlan.

He was the author of the opinion. When I read that quotation, I could not believe I was reading proposed legislation. I thought I was reading some sort of report on a memorandum. But there it is in the bill.

For some 14 years, in the House and Senate combined, with an interval between during which I practiced law, I have never seen proposed legislation drawn like this. It may be very valuable; indeed, it has the appeal of novelty, if that be an appeal. But I do not think we are looking for bizarre ways in which to present proposed legislation in the form of bills to the United States Senate. This is not the time to exercise one's imaginative propensities. Surely the Senate of the United States should not approve such draftsmanship, the content notwithstanding. It is utterly amazing.

The next two subsections amend the advocacy provisions of the Smith Act. Read literally they add absolutely nothing to the construction the Supreme Court has already placed upon the statute. However, if all three subsections to which I have referred are taken together, it might conceivably be possible to interpret the provisions as making advocacy in the abstract a crime. If this be the case, then the provision is unconstitutional, because the Supreme Court for more than 50 years has held the first amendment protects all advocacy in the abstract; not just the Court that is spoken of by some in derogation, as the Warren Court, but the Court for 50 years past.

[illegible] Therefore, this provision is [illegible] [illegible]dant, tautological, or unconstitutional, depending on how it is construed.

[illegible]ve discussed each of the provisions [illegible] because I thought it would [illegible] [illegible] to all Members of the Senate [illegible] upon a motion to table, which I [illegible] make at the conclusion of my [illegible] The issues involved in each [illegible] provisions are quite complex, [illegible] motion to table is defeated it will [illegible] to discuss [illegible] each provision. [illegible] [illegible] measure [illegible] [illegible] There are also many [illegible] [illegible]ments to this proposal which have [illegible] printed and ordered to lie on the [illegible] I am certain some of these will [illegible] up if this amendment is [illegible] [illegible] [illegible]cannot, merely because it is late [illegible] session of Congress, let something

ENCLOS[illegible]

62-27585-122

[redacted] this to through in the interest of saving the time of some of our colleagues, as much as we would like to accommodate and be obliging in that respect.

As I have said, I am certain some of the amendments will be called up if consideration of the amendment is permitted to go further.

The pending amendment has in reality only one purpose. That is to visit retribution on the Supreme Court for some of its past decisions and to put a foot in the door in anticipation of future attempts to strip the Court of its jurisdiction whenever there is disagreement with its decisions.

I am constrained to say that it is an unmitigated attempt to impose the will of Congress upon the Supreme Court. It is in complete violation of the spirit of our Constitution.

Agreement or disagreement with the Court's decision in particular cases should not be the basis of consideration of this bill. As a lawyer, I have disagreed with many of the decisions of the Court.

What should concern the Senate is the maintenance of the concepts of the separation of powers, under the Constitution of the United States.

Mr. President, this bill is reminiscent of two previous and ill-advised attacks on the Supreme Court. In the days after the Civil War, the Congress withdrew from the Supreme Court its power to review denials of a writ of habeas corpus. That was in 1868. In this way, the Congress prevented the Court from ruling on the Reconstruction Acts, which were of highly questionable constitutionality. But in 1869, the Congress was ashamed of what it had done, and did not renew that restriction on the basic right of habeas corpus.

Mr. President, I do not believe this Senate desires to join the ranks of the Reconstruction Senate of 1868 and 1869, which was so coarse and harsh in its treatment of our brothers of the South.

The other attack occurred 20 years ago, in an attempt to pack the Court. Despite the love of the people for their President, that attempt was opposed by the people and by the bar associations; and, indeed, here in the Senate where the bill met its well-deserved fate. The same opposition prevails today.

Mr. President, on the basis of all the foregoing reasons that I have set out, I move that the amendment of the Senator from Indiana [Mr. JENNER] be laid on the table.

b7C 16

[redacted]
Queens Village
Jamaica 27, L.I.
New York
August 27, 1958

Mr. Tolson
Mr. Belmont
Mr. Mohr
Mr. Nease
Mr. Parsons
Mr. Rosen
Mr. Tamm
Mr. Trotter
Mr. W.C.Sullivan
Tele. Room
Mr. Holloman
Miss Gandy

Director J. Edgar Hoover
Federal Bureau of Investigation
Washington, D.C.

Dear Mr. Hoover:

I am writing to you in the hopes that you will be able to supply me with some pertient advice, concerning the Supreme Court and the current and past series of Leftist decisions. I am a Senior at the University of Dayton, and only recently have really become acquainted with the serious situation which has been created in our nation.

I have read a number of articles, some by yourself in the American Mercury Magazine, and have found especially sickening facts concerning the Supreme Court. I have given the matter some rather serious investigation, not simply accepting the few articles that I managed to acquire. I have found that the facts, terrible as they are, are true in all respects.

From what I have been able to discover, the decisions have been at times harmful to the proper operation of the F.B.I. in all of its "All American" activities. Therefore, I felt that you might be able to supply me with the information that I need to do something helpful in a situation which I consider dangerous to our country. Since I expect to finish ROTC and be commissioned in 1959, the future of our country and those fighting for her means even more to me.

I have collected a number of articles concerning the activites of the Supreme Court. I want to see that these get into the hands of people who can attack these decisions, and place the Court in its proper place in American Government. I would like to know where you feel the best effective work can be done, and where letters and information of opinion can do the most good. Why is the Judiciary Committee still handicapped in forming repressive legislation? Cannot Congress control the activities in the Supreme Court, and if so, why is nothing done?

REC-56 2-27585-123

Most important to me is the information where I can do some good as an American citizen. I need that to get a start! Would you be kind enough to advise me, or give me your personal opinion in this matter. If so, I would be most grateful.

Thanking you for your time and trouble, I remain,

Sincerely yours,

[redacted]

EX-PROC

mml ack 3-58

b6
b7C

Q Q

September 3, 1958

REC 36 62-27585-243

[redacted]

Queens Village
Jamaica 27, New York

b7C b6

Dear [redacted]

Your letter of August 27, 1958, has been received in the absence of Mr. Hoover from Washington, and I am taking the liberty of acknowledging it.

I know he will be grateful for the interest which prompted you to write. Enclosed is a copy of Mr. Hoover's recent address before the American Bar Association which I thought you might like to read.

Sincerely yours,

Helen W. Gandy
Secretary

Enclosure

MAILED 27
SEP 3 1958
COMM-FBI

b7C b6

NOTE: In view of the nature of [redacted] inquiries, it is felt that an in-absence letter is in order. No record in Bufiles re [redacted]

SEP 3 11 14 PM '58
RECD-READING ROOM
FBI

Tolson
Boardman
Belmont
Mohr
Nease
Parsons
Rosen
Tamm
Trotter
Clayton
Tele. Room
Holloman
Gandy

MAIL ROOM

50 SEP 15 1958

D. C. Sullivan

LAWRENCE SULLIVAN
COORDINATOR

U. S. HOUSE OF REPRESENTATIVES
COORDINATOR OF INFORMATION
WASHINGTON, D. C.

Mr. Tolson
Mr. Belmont
Mr. Mohr
Mr. Nease
Mr. Parsons
Mr. Rosen
Mr. Tamm
Mr. Trotter
Mr. W. C. Sullivan
Tele. Room
Mr. Holloman
Miss Gandy

September 10, 1958

66, b7C [redacted] pr 10-1

Dear Mr Hoover:

The attached summary of Supreme Court cases relating to communists and subversives doubtless will prove a handy reference document for your files. I pass it along with all good wishes for your continued success in this difficult field. The study is from the Legislative Reference Service, the Library of Congress, and is now in the hands of all Members of the Committee on the Judiciary in both the House and Senate, despite the late publication date, August 7, 1958.

Cordial regards,

EX-128

Sincerely,

LAWRENCE SULLIVAN,
Coordinator.

REC-16

62-27585-154

Hon. J. Edgar Hoover, Director,
Federal Bureau of Investigation,
Department of Justice,
Washington 25, D.C.

4 SEP 23 1958

Ordered by 9-16-58

ENCLOSURE

EX-128

REC-16

EX-PROC

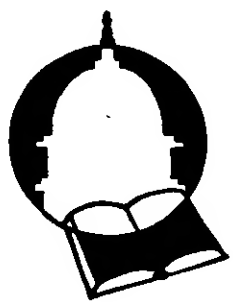
SEP 11 1958

INTERNAL

THE LIBRARY OF CONGRESS
LEGISLATIVE REFERENCE SERVICE

SUPREME COURT CASES RELATING TO

COMMUNISTS AND SUBVERSIVES



By

Hugh P. Price
Legal Analyst
American Law Division
August 7, 1958

Washington 25, D.C.

5.

SUPREME COURT CASES RELATING TO

COMMUNISTS AND SUBVERSIVES

Abrams v. United States (1919) 250 U.S. 616

Defendants were convicted of conspiracy to violate the Espionage Act of 1917 by printing and distributing circulars containing revolutionary propaganda designed to encourage resistance to the war efforts of the United States in order to aid the cause of the Russian Revolution. The Supreme Court found that the evidence was sufficient to support the convictions and that such propaganda was not protected by the First Amendment. It affirmed the conviction.

United States ex rel. Bilokumsky v. Tod (1923) 263 U.S. 149

Bilokumsky was arrested for deportation as an alien within the United States in violation of law in that he had in his possession for distribution printed matter advocating overthrow of the government by force or violence. Upon being called as a witness to prove his alienage he stood mute. The Supreme Court affirmed an order discharging a writ of habeas corpus. It held that admission of alienage, which is not an element of the crime of sedition, would not have tended to incriminate the witness, and that the immigration officers might properly have inferred the fact of alienage from his silence.

United States ex rel. Tisi v. Tod (1924) 264 U.S. 131

Tisi was arrested in deportation proceedings as being within the United States, in violation of law. The ground specified was knowingly having in his possession for distribution printed matter which advocated the overthrow of the government of the United States by force. Tisi claimed

that there was no evidence to sustain the finding that he knew the seditious character of the printed matter. The court upheld the order, saying that where the alien was given a fall and fair hearing, mere error, even if it consisted in finding an essential fact without adequate supporting evidence, was not a denial of due process of law.

Gitlow v. New York (1925) 268 U.S. 652

Gitlow was convicted of violating the criminal anarchy statute of New York. He was charged with printing and circulating a Manifesto advocating the Communist Revolution. The Supreme Court affirmed the conviction. It held that a state does not deny the freedom of speech guaranteed by the Constitution by punishing utterances advocating the overthrow of organized government by force, violence and unlawful means.

United States ex rel Vajtauer v. Com'r (1927) 273 U.S. 103

Vajtauer was arrested in deportation proceedings on the charge that he had illegally entered the United States because prior to or at the time of his entry he believed in and advocated the overthrow of the United States government and had written seditious pamphlets. The Supreme Court sustained the deportation order. It found that the order was supported by substantial evidence and that the action of the immigration authorities in drawing inferences from his refusal to answer questions did not deprive him of any constitutional right, where he had not asserted the privilege against self-incrimination in the proceedings before the immigration authorities.

Whitney v. California (1927) 274 U.S. 357

Miss Whitney was convicted of violation of California Criminal Syndication Act by assisting in organizing the Communist Labor Party of California and by being a member of it. The Supreme Court held the statute constitutional and affirmed the conviction. It declared that a State in the exercise of its police power may punish those who abuse freedom of speech by utterances inimical to the public welfare, tending to incite to crime, disturb the public peace, or endanger the foundations of organized government and threaten its overthrow by unlawful means.

Stromberg v. California (1931) 283 U.S. 359

A member of the Young Communist League was convicted of violating a California statute which forbad display of red flag as a symbol of seditious activity. The Supreme Court reversed the conviction, holding that the statute was too vague and indefinite.

De Jonge v. Oregon (1937) 299 U.S. 353

Appellant was convicted under Oregon Criminal Syndicalism Law of assisting in the conduct of a meeting called under the auspices of the Communist Party. The Supreme Court reversed the conviction. It held that punishment for participation in the conduct of a public meeting, otherwise lawful, because held under the auspices of the Communist Party violates the freedom of speech and assembly guaranteed by the due process clause of the Fourteenth Amendment.

Berndon v. Lowry (1937) 301 U.S. 242

Berndon was convicted by a Georgia Court of attempting to incite insurrection by calling and attending public meetings and making speeches to organize the Communist Party of Atlanta to resist and overthrow the authority of the State. The Supreme Court reversed the conviction, holding that the statute, as construed and applied in this case, did not furnish a sufficiently ascertainable standard of guilt.

Kessler v. Strecker (1939) 307 U.S. 22

An alien is not deportable on the ground of membership in the Communist Party if his membership has ceased at the time of his arrest under a warrant of deportation.

Browder v. United States (1941) 312 U.S. 335

Earl Browder made false statements in his application to obtain a passport and used the passport to establish his identity and American citizenship upon returning to this country. He was convicted of willful use of a passport obtained by false representations. The Supreme Court held that the use made of the passport was within the scope of the statate and affirmed the conviction.

Schneiderman v. United States (1943) 320 U.S. 118

The Supreme Court reversed a judgment of a lower court which cancelled a certificate of Naturalization on the ground that it had been procured by fraud because the petitioner concealed his Communist affiliation from the naturalization court. It held that the government had not proved with requisite certainty that the attitude of the Communist Party

in the United States at the time of naturalization (1927) towards force and violence was such as to disqualify petitioner for naturalization.

Bridges v. Nixon (1945) 326 U.S. 135

Detention of Harry Bridges under a warrant for deportation on the ground of affiliation with the Communist Party was held unlawful on the ground that the term "affiliation" had been construed too broadly, and that the hearing on the question of his membership in the Communist Party had been unfair. The Supreme Court held that the acts tending to prove "affiliation" within the meaning of the deportation statute must be of that quality which indicates an adherence to or furtherance of the purposes of the proscribed organization as distinguished from mere co-operation with it in lawful activities. The act or acts must evidence a working alliance to bring the program to function.

United States v. Lovett (1946) 328 U.S. 303

A statute forbidding payment of compensation to three named employees of the government who had been charged with being members of Communist-front organizations was held invalid as a bill of attainder.

Marzani v. United States (1948) 168 F. 2d 133, Affirmed by equally divided Court 335 U.S. 895 (1948), Affirmed by equally divided Court on rehearing 336 U.S. 922 (1949)

Marzani was prosecuted for making false statements as to his membership and activity in the Communist Party to the Federal Bureau of Investigation and Civil Service Commission, and to his superior in government service. The Court of Appeals held that counts based on statements made to

the FBI and Civil Service Commission more than three years before the indictment were barred by the statute of limitation but affirmed the conviction on counts based on false statements made within the three year period.

United States v. Rosen, cert. denied, 338 U.S. 851 (1949)

Rosen was convicted of contempt of court for refusing to obey an order directing him to answer certain questions he had been asked when he appeared as a witness before a grand jury concerning an automobile which was connected with an alleged criminal conspiracy by Communists.

Reversed by Court of Appeals.

Christoffel v. United States (1949) 338 U.S. 841

A conviction of a witness before a Congressional Committee for perjury in falsely denying that he was a Communist or that he supported or participated in Communist programs was reversed because the instructions to the jury allowed them to find a quorum of the committee present without reference to the facts at the time of the alleged perjurious testimony.

Morford v. United States (1950) 339 U.S. 258, per curiam opinion reversing 176 F. 2d 54

Morford had been convicted of refusing to produce records of the National Council of American-Soviet Friendship demanded by a Congressional Committee. The Supreme Court reversed the conviction because the trial court did not permit counsel for the petitioner to interrogate prospective government employee jurors as to the possible influence of the "Loyalty Order", Executive Order No. 9835, on their ability to render a just and impartial verdict.

United States v. Bryan (1950) 339 U.S. 323

Respondent was executive secretary of the Joint Anti-Fascist Refugee Committee and had custody of its records. She refused to produce such records in compliance with a subpoena of a Congressional Committee and was convicted of willful default in violation of §102 of the Revised Statutes. She denied guilt on the ground that a quorum had not been present when she appeared on the return day. The Court held that the presence of a quorum of the committee at the time of the return of the subpoena was not an essential ingredient of the offense. Since defendant had made no objection to the lack of a quorum at the time, she could not rely on it as a defense on her trial for willful default.

United States v. Fleischman (1950) 339 U.S. 349

The defendant was a member of the executive board of the Joint Anti-Fascist Refugee Committee. She and other members of the board were subpoenaed to produce certain records of the Committee before a Committee of Congress. She pleaded that she was unable to comply because she did not have custody of the records. She was convicted of willful default under §102 of the Revised Statutes. The Supreme Court sustained the conviction. It held that when one accepts an office of joint responsibility in which compliance with lawful orders require joint action by the body of which he is a member, he assumes an individual responsibility to act, within the limits of his power, to bring about compliance with such an order.

American Communications Association v. Douds (1950) 339 U.S. 382

In two cases where the National Labor Relations Board had withheld certain benefits of the National Labor Relations Act from unions

whose officers had not filed non-Communist affidavits, the lower courts held the affidavit requirement valid and denied relief. The Supreme Court affirmed judgments. A majority of the court agreed that the requirement of disclosure of overt acts of affiliation or membership in the Communist Party did not deny any constitutional rights, but the court appeared to be equally divided with respect to that part of the law requiring disclosure of belief unconnected with any overt act.

Osman v. Douds (1950) 339 U.S. 846

Section 9(h) of the National Labor Relations Act, as amended, pertaining to "non-Communist" affidavit, held valid, in so far as it is concerned with membership in, or affiliation with, the Communist Party. With regard to the constitutionality of other parts of the section concerning beliefs of the affidavit, the court was equally divided.

Blau v. United States (1950) 340 U.S. 159

A witness cannot be compelled to testify before a grand jury, over a claim of the privilege against self-incrimination, concerning his employment by the Communist Party or knowledge of its operations. Even if the answers to such questions would not support a conviction for crime, they might furnish a link in the chain of evidence needed for prosecution under the Smith Act. Accordingly, a conviction for refusal to answer such questions was reversed.

Blau v. United States (1951) 340 U.S. 332

Petitioner, a witness before a federal grand jury, declined to answer questions concerning activities and records of the Communist Party, claiming the privilege against self-incrimination. He also refused to divulge the whereabouts of his wife, asserting a privilege not to disclose confidential communications between husband and wife. The Supreme Court held

that his claim of privilege against self-incrimination should have been sustained. It also held that he was entitled to rely on the privilege against disclosing confidential communications between husband and wife since the government failed to overcome the presumption that the communications were confidential.

Rogers v. United States (1951) 340 U.S. 367

After testifying without objection that she had been Treasurer of the Communist Party of Denver, had been in possession of its records and had turned them over to another persons, petitioner refused to identify the person to whom she had delivered the records, giving as her only reason her desire to protect the other person. The Supreme Court sustained her conviction for contempt. It held that the privilege against self-incrimination was solely for the benefit of the witness and could not be asserted for the benefit of another. It also held that records kept in a representative, rather than a personal capacity, cannot be the subject of the personal privilege against self-incrimination, even though production of them might incriminate their keeper personally.

Kasinowitz v. U. S., cert. denied, 340 U.S. 920 (1951)

Kasinowitz, Steinberg, and Dobbs were found guilty of criminal contempt in U. S. District Court, for refusing to answer questions in grand jury investigation of Communist movement, on ground that they would incriminate themselves by answering such questions, and they appealed. The Court of Appeals held that defendants were justified in refusing to answer the questions.

Judgment reversed.

Estes v. Potter, cert. denied, 340 U.S. 920 (1951)

Proceeding in matter of application for punishment of Fred Estes for continuous refusal to answer questions as ordered by the court

in an examination by immigration inspectors. District Court held respondent in contempt of court and he appealed. Court of Appeals held that testimony by an alien whether he personally knew another alien, whether other alien was member of Communist party, whether other alien contributed funds to Communist party, and whether other alien attended meetings of Communist party, would tend to show that witness was a member of or affiliated with the Communist party, and therefore witness could refuse to answer questions, on ground that it might make him liable for criminal prosecution and deportation.

Reversed by Court of Appeals and remanded with directions.

Gerende v. Election Board (1951) 341 U.S. 56

A decision by a state court denying appellant a place on a ballot pursuant to a state law, construed as requiring that, in order for a candidate for public office in that state to obtain a place on the ballot, he must make an oath that he is not engaged "in one way or another in the attempt to overthrow the government by force or violence" and that he is not knowingly a member of an organization engaged in such an attempt, affirmed on the understanding that an affidavit in those terms fully satisfies the requirement.

Joint Anti-Fascist Refugee Committee v. McGrath (1951) 341 U.S. 123

Suit for declaratory and injunctive relief against action of Attorney General in designating three petitioner organizations as Communist in a list furnished to the Loyalty Review Board for use in determining loyalty of government employees. The Court held that Executive Order No. 9835

did not authorize the Attorney General to act arbitrarily in so designating an organization and that the complaints charging him with arbitrary action stated a cause of action.

NLRB v. Highland Park Mfg. Co. (1951) 341 U.S. 322

The C.I.O. is a "national or international labor organization" within the meaning of section 9 (h) of the National Labor Relations Act, as amended. The National Labor Relations Board could not proceed against an employer at the instance of a union affiliated with the C.I.O. when the officers of the C.I.O. had not filed non-Communist affidavits, although the affiliated union's own officers had filed such affidavits.

Dennis v. United States (1951) 341 U.S. 494

Conviction of eleven Communists under the Smith Act affirmed. As applied in this case, sections of that Act making it a crime for any person knowingly or willfully to advocate the overthrow or destruction of the government of the United States by force or violence, or to organize or help to organize any group which does so, or to conspire to do so, does not violate the First Amendment or other provisions of the bill of rights.

Garner v. Board of Public Works of Los Angeles (1951) 341 U.S. 716

Since 1941 the Charter of Los Angeles has forbidden the employment of persons affiliated with organizations which advocate the overthrow of the government by force and violence. In 1948 the city passed an ordinance requiring every employee to take an oath that he was not and

had not for five years been a member of such an organization, and to execute an affidavit stating whether he was or ever had been a member of the Communist Party. The Supreme Court held these requirements valid. The city was entitled to inquire into the past loyalty of its employees. Since membership in subversive organizations had been forbidden since 1941, the oath required in 1948 was not ex post facto.

Bailey v. Richardson (1950) 182 F. 2d 46, Affirmed by equally divided Court 341 U.S. 918 (1951)

Miss Bailey was separated from the federal service as a result of an adverse decision by the Loyalty Review Board of the Civil Service Commission. She had been informed that the Commission had received evidence that she was or had been a member of the Communist Party or Communist Party-Association and had attended meetings of the Communist Party and associated with known Communist Party members. She was granted a hearing and permitted to offer evidence but was never informed of the names of the persons who had supplied derogatory information against her. She sued for reinstatement but the District Court granted the government's motion for summary judgment. The Court of Appeals affirmed, holding that dismissal of a federal employee on loyalty grounds involved no rights of the employee and did not violate any constitutional requirements.

Stack v. Boyle (1951) 342 U.S. 1

Bail for 12 persons arrested under the Smith Act was originally fixed in amounts varying from $2,500 to $100,000. Later it was fixed at $50,000 for each. The only evidence offered by the government was that four other persons previously convicted under the Smith Act in another

district had forfeited bail. No evidence was produced relating these persons to petitioners. Held that if bail in an amount greater than usually fixed for serious charges of crimes is required in the case of any of the petitioners, it was a matter to which evidence should be directed in a hearing so that the rights of each petitioner could be preserved.

Adler v. Board of Education (1952) 342 U.S. 485

A New York law made ineligible for employment in public schools any member of an organization advocating the overthrow of the government by force, violence or any unlawful means. It required the Board of Regents to promulgate a list of such organizations and to provide in its rules that membership in an organization so listed in prima facie evidence of disqualification for employment in the public schools. No organization may be so listed and no person severed from or denied employment, except after a hearing and subject to judicial review. The Supreme Court held these requirements constitutional.

Carlson v. Landon (1952) 342 U.S. 524

The Attorney General had ordered certain alien Communists taken into custody and held without bail pending determination of deportability. In habeas corpus proceedings the Supreme Court held that such detention was authorized by the Internal Security Act when there was reasonable cause to believe that release of such persons on bail would endanger the safety and welfare of the United States. Such detention did not deny due process of law.

Harisiades v. Shaughnessy (1952) 342 U.S. 580

The Alien Registration Act of 1940, so far as it authorized deportation of a legally resident alien because of membership in the Communist Party, even though such membership terminated before enactment of the act, was within the power of Congress.

U. S. v. Coplon, Cert. denied, 342 U.S. 920 (1952)

Judith Coplon and Valentine A. Gubichev were convicted of conspiring to defraud the United States and the first named defendant was convicted alone of attempting to deliver defease information to a citizen of a foreign nation and she appealed. The Court of Appeals held that the evidence did not justify the arrest of defendant Coplon by agents of the FBI without a warrant because of lack of evidence or likelihood of escape of such defendant, that the prosecution should be required to divulge the contents of wire tappings and that the examination as to a "confidential informant" should go far enough to show that he was not a wire tapper.

Reversed and remanded.

Coplon v. U. S., Cert. denied, 342 U.S. 926 (1952)

Judith Coplon was convicted for copying, taking, concealing and removing documents of the Department of Justice, in which the defendant was an employee, to the injury of the U. S. and to the advantages of a foreign nation. During pendency of appeal, defendant filed a motion for a new trial which was denied. From this denial defendant appealed and Court of Appeals considered latter motion separate from the record in the main trial. The Court of Appeals held that while there was sufficient evidence to sustain the verdict of the jury, the District Court erred in holding that

the interception of telephone messages between the defendant and her counsel before and during her trial, if it occured, was nothing more than a serious breach of ethics, since if the interception took place the defendant was denied the effective aid and assistance of counsel.

Judgment of conviction was affirmed, order denying motion for new trial set aside and case remanded with directions.

L'Hommedieu v. Board of Regents (1952) 342 U.S. 951, per curiam opinion, affirmed 301 N.Y. 476, 95 N.E. 2d 806

Plaintiff in three cases sought adjudication that New York's Feinberg law, which prohibits retention as employees in public schools of persons who advocated violent overthrow of the government was unconstitutional. The state court held it valid. The legislature's finding that subversive groups had infiltrated the public schools and were disseminating subversive propaganda among school children showed that a clear and present danger existed which justified the exercise by the state's police power to prevent the evil.

Sacher v. United States (1952) 343 U.S. 1

During the trial of eleven Communist Party leaders, defense counsel, in the presence of the trial judge and in the face of repeated warnings that their conduct was regarded as contemptuous, persisted in a course of conduct that was highly contemptuous and that tended to disrupt and delay the trial. Upon receiving the verdict of the jury, the trial judge, without further notice or hearing filed a certificate under Rule 42 (a) of the Federal Rules of Criminal Procedure summarily

finding such counsel guilty of criminal contempt and sentencing them to imprisonment. Held, this action was within the power of the trial judge.

United States v. Spector (1952) 343 U.S. 169 .

Spector was indicted for violation of a law which made it a felony for an alien against whom a specified order of deportation was outstanding to "willfully fail or refuse to make timely application in good faith for travel or other documents necessary to his departure". An order of deportation was entered against him in 1930 by reason of his advocacy of the overthrow of the government by force and violence. The District Court dismissed two counts of the indictment on the ground that the provision quoted was void for vagueness. The court held it was sufficiently definite to free it of the constitutional infirmity of vagueness, and reversed the decision.

United States v. Remington, Cert. denied, 343 U.S. 907 (1952)

Remington was convicted of perjury for denying under oath that he had been a member of the Communist Party and he appealed. The Circuit Court held that instruction that to find membership in the Communist Party jury must find that defendant performed the act of joining the party, that the act of joining is crucial, that jury must not find evidence of the very act of joining the party but rather from all the evidence jury must be convinced beyond reasonable doubt that defendant was in fact a member of the Communist Party and was accepted as such by the party, was error and error was prejudicial.

Reversed and remanded.

Brunner v. United States (1952) 343 U.S. 918, per curiam reversing 190 F. 2d 167

Brunner was called as a witness for the United States in the prosecution of another person. He refused to answer questions concerning his membership in the Communist Party in 1937 or 1938 or whether he ever saw the defendant at meetings of the Communist Party in those years. He claimed the privilege against self-incrimination, but the trial court denied the claim and sentenced him for contempt for failure to answer. The Court of Appeals affirmed the sentence on the ground that since the Smith Act was not enacted until 1940, the witness could not be prosecuted for membership in the Communist Party in 1937 or 1938.

Wieman v. Updegraff (1952) 344 U.S. 183

An Oklahoma statute requiring each State officer and employee to take an oath that he is not, and has not been for the preceding five years, a member of any organization listed by the Attorney General of the United States as "Communist front" or "Subversive" was, construed by the State Court to exclude persons from state employment solely on basis of membership in such organizations, regardless of their knowledge concerning the activities and purposes of the organizations to which they belong. The Supreme Court held that as thus construed, the statnte violates the due process clause of the Fourteenth Amendment.

National Labor Relations Board v. Dent (1953) 344 U.S. 375

A union whose officers had not filed non-Communist affidavits filed a charge against an employer with the National Labor Relations Board.

Thereafter the affidavits were filed and the Board issued a complaint and, after the usual proceedings, ordered the employer to correct the charged unfair labor practices. The Court of Appeals set aside the order on the ground that the Board could not entertain the charge when the union had not complied with the requirement of non-Communist affidavits. The Supreme Court reversed this decision, holding that the filing of such affidavits was not a prerequisite to the filing of a charge.

Orloff v. Willoughby (1953) 345 U.S. 83

Petitioner was inducted into the army under the doctors' draft law, but was not commissioned or given the usual duties of an army doctor because he refused to state whether he was, or had been, a member of the Communist Party. He applied for a writ of habeas corpus to discharge him from the army on the ground that personnel inducted under the doctors' draft law should either be commissioned or discharged. The Court concluded that he was not being held in the army unlawfully and affirmed the dismissal of his application for habeas corpus.

Heikkila v. Barber (1953) 345 U.S. 229

An alien who has been ordered deported on the ground of membership in the Communist Party may not obtain review of the Attorney General's decision under section 10 of the Administrative Procedure Act by a suit for declaratory judgment or injunctive relief. Habeas corpus is the only procedure by which an order for deportation may be challenged in the courts.

Albertson v. Millard (1953) 345 U.S. 242

Five days after the Michigan Communist Control Act was passed, the Communist Party of Michigan and its Executive Secretary sued for a declaratory judgment that it was unconstitutional and for an injunction against its enforcement. The District Court found it constitutional but temporarily restrained its enforcement pending appeal. A similar suit was brought in a state court but was held in abeyance pending decision in the Supreme Court. The judgment of the federal district court was vacated and the case remanded with directions to hold the proceedings in abeyance a reasonable time pending construction of the statute by the state courts.

In re Isserman (1953) 345 U.S. 286

Isserman was one of the defense attorneys in Dennis v. United States, 341 U.S. 494, who was sentenced for contempt at the conclusion of the trial. Following affirmance of the contempt sentence he was disbarred by the Supreme Court of New Jersey. On the basis of that disbarment, and respondent's failure to show cause why he should be disbarred by the Supreme Court he was disbarred from practicing in the latter.

Bridges v. United States (1953) 345 U.S. 979, per curiam opinion, reversing 199 F. 2d 845

The Court of Appeals had affirmed a judgment revoking the naturalization of Harry Bridges after he had been convicted of knowingly procuring naturalization by fraudulently representing that he had never belonged to the Communist Party, even though the appellate remedies had not been exhausted in the criminal proceedings.

Bridges v. United States (1953) 346 U.S. 209

Petitioners were indicted for testifying falsely in Bridges' naturalization proceeding in 1945 that he was not and had not been a member of the Communist Party. Held that the general three-year statute of limitations was applicable to the offenses charged and the indictment in 1949 came too late.

Rosenberg v. United States (1953) 346 U.S. 273

The Rosenbergs were convicted and sentenced to death for conspiring to violate the Espionage Act of 1917 by communicating to the Soviet Union, in wartime, secret atomic and other military information. The overt acts relating to atomic secrets occurred before enactment of the Atomic Energy Act of 1946; but other aspects of the conspiracy continued into 1950. The Supreme Court held that the Atomic Energy Act did not repeal or limit the penalty provisions of the Espionage Act. It therefore upheld the conviction and sentence.

Sacher v. Association of the Bar of the City of New York (1954) 347 U.S. 388

Petitioner was an attorney for the defendants in Dennis v. United States, 341 U.S. 494, and was convicted of contempt at the conclusion of that case. In a proceeding brought by the respondent bar association, the District Court disbarred him. The Supreme Court held that permanent disbarment was unnecessarily severe and remanded the case to the District Court for further consideration.

Barsky v. Board of Regents (1954) 347 U.S. 442

Barsky was convicted of failing to produce records of the Joint

Anti-Fascist Refugee Committee pursuant to a subpoena of a Congressional Committee. On the basis of that conviction his license to practice as a physician in New York was suspended for six months. The Supreme Court upheld this action. It held that the state did not deprive Barsky of any constitutional right by making the conviction of any crime a violation of its professional medical standards, and leaving it to a qualified board of doctors to determine initially the measure of discipline to be applied to the offending practioner, with the final decision being made by the Board of Regents after due hearing.

Galvan v. Press (1954) 347 U.S. 522

Section 22 of the Internal Security Act of 1950 providing for the deportation of any alien who has been a member of the Communist Party at any time after entry is constitutional as here applied to a resident alien shown to have been willingly a member of the Communist Party from 1944 to 1946 although not shown to have been aware of its advocacy of violent overthrow of the government.

Farmer v. International Fur and Leather Workers
Farmer v. United Electrical, Radio and Machine Workers, Cert. denied 347 U.S. 943 (1954)

Labor unions brought suits against members of the National Labor Relations Board for declaratory judgment and injunction. The District Court entered judgment adverse to members of board and they appealed. The Court of Appeals held that where officers of unions filed non-Communist affidavits pursuant to requirements of the Labor Management Act, and unions were notified that there had been compliance with such requirements,

National Labor Relations Board had no authority to require officers of unions to affirm truth of their affidavits, or to bar unions for participating in representation and unfair labor practice proceedings unless officers should affirm truth of their affidavits.

Affirmed.

Quinn v. United States (1955) 349 U.S. 155

Quinn was indicted for contempt of Congress for refusing to say whether he was or had been a member of the Communist Party. He had adopted another witness' statement of grounds for refusal to testify under the "First and Fifth Amendments". Held that his reference to the Fifth Amendment was sufficient to invoke the privilege. Moreover the conviction could not stand because the committee did not specifically overrule his objection and direct him to answer the questions.

Emspack v. United States (1955) 349 U.S. 190

A conviction for refusal to answer 68 questions asked by a Congressional Committee concerning alleged membership in Communist Party and Communist front activities was reversed because questions were within the scope of the privilege which was properly claimed and not waived, and because the committee did not specifically overrule the claim of privilege under the Fifth Amendment and direct the witness to answer.

Petitioner refused to answer questions put by a Congressional Committee concerning himself and the identity of certain officials of the Communist Party, on the ground of his constitutional privilege against self-incrimination. The committee did not specifically overrule his objection

to direct him to answer. Held, that in a trial for violation of 2 U.S.C. 192, the District Court should have entered a judgment of acquittal since the committee had failed to lay the necessary foundation for a prosecution.

Bart v. U. S. (1955) 349 U.S. 219

Summoned to testify before a congressional investigating committee, petitioner refused to answer certain questions on the ground of his constitutional privilege against self-incrimination. The committee did not specifically overrule his objection or direct him to answer. Held: In his trial for a violation of 2 U.S.C. 192, the District Court should have entered a judgment of acquittal, because the committee had failed to lay the necessary foundation for a prosecution under §192.

Reversed.

Peters v. Hobby (1955) 349 U.S. 331

Petitioner was removed from federal employment after the Loyalty Review Board determined that there was reasonable doubt as to his loyalty. After petitioner had been cleared by an Agency Board of charges of membership in the Communist Party and association with Communists and Communist symphathizers, the Loyalty Review Board conducted a "post-audit" of the Agency Board's determination and reached a contrary conclusion. The Supreme Court held that under Executive Order No. 9835, the Loyalty Review Board had no jurisdiction to review the case on its own motion and held the order invalid.

NLRB v. Cocacola Bottling Co. (1956) 350 U.S. 264

A labor union instituted proceedings before the NLRB charging an employer with unfair labor practices in violation of §§8(a)(1) and 8(a)(3) of the NLR Act. A complaint based on these charges was issued. At the hearing, the employer challenged the Board's jurisdiction on the ground that the union had not satisfied the requirements of §9(h), which requires the filing of non-Communist affidavits by all "officers" of the Union and of any national or international labor organization of which it is an affiliate, and offered to prove that the Regional Director of the C.I.O. for Kentucky, who had not filed such an affidavit, was an "officer" within the meaning of §9(h).

The Supreme Court held: (1) The Board erred in ruling that, during the course of the unfair labor practice hearing, the employer could not show that the labor organization had not complied with section 9(h) and thereby establish the Board's want of jurisdiction. (2) The Board's construction of the word "officer" in §9(h) as meaning "any person occupying a position identified as an office in the constitution of the labor organization", and its finding that the Regional Director of the C.I.O. for Kentucky is not such an "officer", are sustained.

Reversed and remanded.

Ullman v. United States (1956) 350 U.S. 422

Petitioner was called before a federal grand jury and asked about his and other persons' membership in the Communist Party and his knowledge of subversive activities. When he claimed the privilege against self-incrimination the Attorney General obtained an order under the Immunity

Act of 1954 requiring petitioner to testify. Petitioner persisted in his refusal to answer, and was convicted of contempt and sentenced to imprisonment. The Supreme Court held the Immunity Act constitutional and sustained the conviction.

Pennsylvania v. Nelson (1956) 350 U.S. 497

Nelson had been convicted of violating the Pennsylvania sedition act, but the conviction had been reversed by the state Supreme Court on the ground that the state law had been superseded by the Smith Act passed by Congress in 1940. The Supreme Court affirmed this decision on the ground that the scheme of federal regulation is so pervasive as to make reasonable the inference that Congress left no room for the states to supplement it.

Slochower v. Board of Education (1956) 350 U.S. 551

A witness before a Congressional Committee refused to answer questions concerning membership in the Communist Party in 1940 and 1941 on the ground that his answers might tend to incriminate him. Thereafter he was summarily discharged from his position as a teacher in a college operated by New York City, pursuant to provision in New York City Charter that whenever a city employee claims the privilege against self-incrimination to avoid answering before a legislative committee a question concerning his official conduct, his employment shall terminate. Held that no inference of guilt can be drawn from claim of privilege before the federal committee and summary dismissal violated due process clause of the Fourteenth Amendment.

by the Municipal Court of the Los Angeles Judicial District, and the tenants appealed. The Superior Court, Appellate Department held that the housing authority was without authority to exact the signing of a certificate of non-membership in certain organizations designed by the Attorney General of the United States in an executive order, as a condition to the right to occupy its premises.

Reversed and remanded for trial upon the issues.

United Mine Workers v. Arkansas Oak Flooring Co. (1956) 351 U.S. 62

A state court had issued an order restraining picketing by employees who were on strike for recognition of their union. The union held cards from a majority of the eligible employees authorizing it to represent them but its officers had not filed non-Communist affidavits or financial or organizational data. The Supreme Court held that the employer was obliged to recognize the union despite the failure to file such affidavits or data. That being so, the state had no authority to enjoin the peaceful picketing in question. ✓

United States v. Zucca (1956) 351 U.S. 91

The government sought to denaturalize Zucca on the ground that he had procured naturalization by concealing his membership in the Communist Party and by false swearing concerning his intentions and beliefs. The District Court dismissed the proceeding because the government failed to file an "affidavit showing good cause". The Supreme Court held that the affidavit was a prerequisite to the maintenance of the proceeding and affirmed the decision.

Communist Party v. Subversive Activities Control Board (1956) 351 U.S. 115

While an appeal from an order of the Subversive Activities Control Board requiring petitioner to register as a "Communist-action" organization was pending, petitioner asked leave to introduce new evidence which would show that the testimony of three government witnesses was perjurious. The Supreme Court held that the testimony of the challenged witnesses was not inconsequential in relation to the issues decided by the Board. It ordered the case returned to the Board to reconsider the original determination in the light of petitioner's challenge.

Black v. Cutter Laboratories (1956) 351 U.S. 292

The defendant had discharged an employee on the ground that she was a member of the Communist Party and had falsified her application for employment. Her union sought reinstatement before an arbitration board pursuant to a collective bargaining agreement which authorized discharge for "just cause" only. The board ordered reinstatement on the ground that the claimed grounds for discharge had been waived by the company. This order was affirmed by lower courts in California but reversed by the state Supreme Court. Upon examination of the record the Supreme Court found that the state court's decision involved only the construction of a local contract under local law and did not present any substantial federal question. The writ of certiorari was dismissed.

Jay v. Boyd (1956) 351 U.S. 345

An alien whose deportation had been ordered because of membership in the Communist Party applied for suspension of deportation. After

administrative hearings authorized by regulation of the Attorney-General but not expressly required by statute, a special inquiry officer found that the applicant met the statutory requirements for grant of discretionary relief. Nevertheless, suspension was denied on the basis of confidential information not disclosed to the alien. The Supreme Court sustained the denial of the application. Since suspension of deportation was a matter of grace and not of right, the use of confidential information was permissible, at least where the action was reasonable.

Cole v. Young (1956) 351 U.S. 536

Petitioner's employment by the Food and Drug Administration was terminated after he declined to answer charges that he associated with Communists and contributed to subversive organizations. Being entitled to veterans' preference he brought an action for a declaratory judgment that his discharge was invalid and an order requiring his reinstatement to his former position. The Court held that since there had been no determination that his position affected national security, summary dismissal was not authorized by the Act of August 26, 1950, and hence violates the Veterans' Preference Act.

Pizer v. Brown, Cert. denied 351 U.S. 982 (1956)

Action to enjoin the officers of a local union from disbursing and concealing funds and to prevent their use of the property of such local. A preliminary injunction was granted and judgment was rendered for plaintiff in the Superior Court, Los Angeles County, and the defendants appealed. The District Court of Appeal held that when the International

chartered a new local union for the purpose of absorbing the anticommunist members of the old union and preserving their membership to the International, there was no breach of contract by the International under the Constitution, and the International had the better title to the property of a disbanded union, that there was no reversible trial error, and that the International did not appear before the trial court with unclean hands.

Judgment affirmed.

National Lawyers Guild v. Brownell, Cert. denied 351 U.S. 927 (1956); Rehearing denied 351 U.S. 990 (1956)

Action by national bar association to enjoin U. S. Attorney General from designating association as communistic and to obtain judgment declaring executive orders under which Attorney General was acting and procedures adopted by him under such orders unconstitutional and declaring Attorney General disqualified to rule in such case because of alleged prejudgment of the issues. The District Court granted summary judgment, and association appealed. The Court of Appeals held that where Attorney General posed, as basic issue, that association must exhaust its admininistrative remedy before obtaining judicial review, such issue became one upon the merits of prayer for permanent injunctive relief, and, such, was open for consideration upon Attorney General's motion for summary judgment.

Affirmed.

Mesarosh v. United States (1956) 352 U.S. 1

Petitioners had been convicted of violating the Smith Act. While the appeal was pending the Solicitor General moved that the case be

remanded to the District Court for a determination of the credibility of the testimony of one of the government witnesses at the trial. Parts of the testimony of this witness in other proceedings had been shown to be untrue. The Supreme Court held that since the case had been tried by a jury, the district judge was not the proper agency to determine whether there had been sufficient evidence, other than the testimony of the witness in question, to sustain the conviction. It remanded the case for a new trial.

Leedom v. International Union of Mine, Mill, and Smelter Workers (1956) 352 U.S. 145

Finding that the non-Communist affidavit filed by one of the union officers was false, the National Labor Relations Board ordered that the union be accorded no further benefits under the National Labor Relations Act until it complied with the Act. The Supreme Court held that the criminal sanction was the exclusive sanction for filing a false affidavit and that the Board had no authority to withhold the benefits of the Act from the union by reason of such false affidavit.

Amalgamated Meat Cutters and Butcher Workmen v. NLRB (1956) 352 U.S. 153

After a union officer had been convicted of filing a false non-Communist affidavit, the National Labor Relations Board declared the union out of compliance with section 9(h) of the National Labor Relations Act. The Supreme Court held that the Board had no power to issue such an order after the specified officers had filed the required affidavits, the sole sanction for false affidavits being the criminal penalty.

Braverman v. Bar Association of Baltimore City, Cert. denied 352 U.S. 830

Disbarment proceedings were instituted by the Bar Association of Baltimore City against attorney who had been convicted in U. S. District Court of the crime of conspiracy to violate §2 of the Smith Act. The Judges of the Supreme Bench of Baltimore City entered an order disbarring attorney from practice of law, and he appealed. The Court of Appeals held that attorney was properly disbarred.

Order affirmed.

News Printing Co. v. Nat. Labor Relations Board, Cert. denied 352 U.S.

Proceeding upon petition for review and upon cross-petition for enforcement of NLRB's order providing that employer cease and desist from discouraging membership in any labor organization by discriminatorily discharging employees. The Court of Appeals held that evidence was sufficient to sustain the findings.

Order modified and, as modified enforced.

[Here charges were brought by nine employees. Petitioner contended that Board lacked jurisdiction to act on the charges because the individual charging parties were allegedly "fronting" for International Typographical Union and its Local 195 which had failed to meet the filing requirements of section 9 of the Act. In the course of its opinion, the court said that employees, who act individually, may assert their own rights before the NLRB irrespective of requirements of NLR Act that union file non-Communist affidavit and regardless of whether such employees are members of a non-complying union. Further, a labor union which was allegedly behind proceedings under the NLR Act, and which had failed to file non-Communist affidavit,

was not to be permitted to achieve by indirection what it could not accomplish directly, and employer was entitled to have the notice so worded as to eliminate all specific references to the non-complying union and to make clear that the Board's order simply protected the §7 rights of the individual charging employees.]

United Electrical, Radio and Machine Workers of America, et al. v. Goodman Manufacturing Co., et al., Cert. denied 352 U.S. 872 (1956)

Proceeding to review and set aside an order of the NLRB, wherein inter alia, the Board found employer-petitioner guilty of an unfair labor practice. The Court of Appeals held that the record disclosed that "secretaries" and "trustees" of an international union were "officers" within the intendment of the Labor Relations Act respecting the filing of non-communist affidavits and the Labor Relations Board's regulation, and where such officers had not filed non-communist affidavits, the employer was not guilty of an unfair labor practice in refusing to collectively bargain with the organization.

Petition to review, set aside and vacate order allowed and the Board's request for enforcement denied.

Daniman v. Board of Education of the City of New York; Appeal dismissed for want of jurisdiction 352 U.S. 950 (1956)

Proceeding for orders directing the Board of Education and the Board of Higher Education of the City of New York to annul dismissals of petitioners from their positions as teachers in public schools and colleges of the City of New York, and to reinstate them without prejudice.

The Supreme Court, Special Term, Kings County, entered orders denying petitioners' applications, and petitioners appealed.

The Court of Appeals affirmed the orders, and held that section 903 of the Charter of the City of New York providing that the employment of any city employee refusing to testify or answer any question regarding the official conduct of any city officer or employee before any legislative committee, on ground that his answer will tend to incriminate him, shall terminate, applies to a hearing before a federal legislative committee, and that petitioners, being paid their salaries by check signed by city treasurer with funds from city treasury, were employees of the city within the meaning of such section.

NLRB v. Eastern Mass. Street Railway Co., Cert. denied 352 U.S. 951 (1956)

Proceedings upon petitions for enforcement of orders of the NLRB. Employer charged before NLRB with having committed unfair labor practices cannot show that union's reports or non-Communist affidavits were false.

Orders enforced.

Gold v. United States (1957) 352 U.S. 985, per curiam opinion, 237 F. 2d 764 reversed

Gold had been convicted of filing a Taft-Hartley affidavit which was false insofar as it denied that he was a member or supporter of the Communist Party. During the trial an FBI agent, investigating another case in which falsity of a non-Communist affidavit was also charged, telephoned or visited three members of the jury or their families and

inquired whether they had received any "propaganda" literature. The Supreme Court remanded the cases to the District Court with directions to grant a new trial because of official intrusion into the privacy of the jury.

U. S. v. Witkovich (1957) 353 U.S. 194

Appellee was indicted under §242(d) of the Immigration and Nationality Act of 1952 on the charge that, as an alien against whom a final order of deportation had been outstanding for more than six months, he had willfully failed to give information requested by the Immigration and Naturalization Service under the purported authority of clause (3) of that section. The information he was charged with failing to furnish concerned (1) present membership in and activities on behalf of the Communist Party and other organizations, and (2) association with particular individuals. The Supreme Court held: Construing clause (3) of §242(d) in the context of the entire section and of the scheme of the legislation as a whole, with due regard to the principle of so construing statutes as to avoid raising constitutional questions, the information an alien is required to furnish under clause (3) relates solely to his availability for deportation; and dismissal of the indictment for failure to state an offense is sustained.

Schware v. Board of Bar Examiners of New Mexico (1957) 353 U.S. 232

In 1953 the Board of Bar Examiners of New Mexico refused to permit petitioner to take the bar examination, on the ground that he had not shown "good moral character", and thereby precluded his admission to the bar of that State. It was conceded that petitioner was qualified in all

other respects. Petitioner made a strong showing of good moral character, except that it appeared that from 1933 to 1937 he had used certain aliases, that he had been arrested (but never tried or convicted) on several occasions prior to 1940, and that from 1932 to 1940 he was a member of the Communist Party. The State Supreme Court sustained the Board. The U. S. Supreme Court held: On the record in this case, the State of New Mexico deprived petitioner of due process in denying him the opportunity to qualify for the practice of law.

Reversed and remanded.

Konigsberg v. State Bar of California (1957) 353 U.S. 252

In 1954 the Committee of Bar Examiners of California refused to certify petitioner to practice law in that State, though he had satisfactorily passed the bar examination, on the grounds that he had failed to prove (1) that he was of good moral character, and (2) that he did not advocate forcible overthrow of the Government. He sought review by the State Supreme Court, contending that the Committee's action deprived him of rights secured by the 14th Amendment. The State Supreme Court denied his petition without opinion. The U. S. Supreme Court held: The evidence in the record does not rationally support the only two grounds upon which the Committee relied in rejecting petitioner's application, and therefore the State's refusal to admit him to the bar was a denial of due process and equal protection of the laws, in violation of the 14th Amendment.

That petitioner was a member of the Communist Party in 1941, if true, does not support an inference that he did not have good moral character, absent any evidence that he ever engaged in or abbetted or supported

any unlawful or immoral activities.

Reversed and remanded.

Jencks v. U. S. (1956) 353 U.S. 657

Petitioner was convicted in a Federal District Court of violating 18 U.S.C. 1001 by filing, under §9(h) of NLR Act, as president of a labor union, an affidavit stating falsely that he was not a member of the Communist Party or affiliated with such party. Crucial testimony against him was given by two paid undercover agents for the FBI, who stated on cross-examination that they had made regular oral or written reports to the FBI on the matters about which they had testified. Petitioner moved for the production of these reports in court for inspection by the Judge with a view to their possible use by petitioner in impeaching such testimony. His motions were denied. The U. S. Supreme Court held: Denial of the motions was erroneous, and the conviction is reversed.

Scott v. RKO Radio Pictures, cert. denied 353 U.S. 939 (1957)

Motion picture director's refusal to answer congressional committee's questions concerning his Communist affiliations which resulted in his contempt conviction, constituted moral turpitude as matter of law, justifying his discharge under employment contract permitting discharge for commission of offense tending to offend public morals or decency.

The District Court entered judgment for company, and director appealed.

Judgment affirmed by Court of Appeals.

Watkins v. U. S. (1957) 354 U.S. 178

Petitioner was convicted of a violation of 2 U.S.C. §192, which makes it a misdemeanor for any person summoned as a witness by either House of Congress or any committee thereof to refuse to answer any question "pertinent to the question under inquiry". Summoned to testify before a Subcommittee of the House of Representatives Committee on Un-American Activities, petitioner testified freely about his own activities and associations; but he refused to answer questions as to whether he had known certain other persons to have been members of the Communist Party. He based his refusal on the ground that those questions were outside of the proper scope of the Committee's activities and not relevant to its work. No clear understanding of the "questions under inquiry" could be gleaned from the resolution authorizing the full committee, the legislative history thereof, the Committee's practices thereunder, the action authorizing the Subcommittee, the statements of the chairman at the opening of the hearings or his statement in response to petitioner's protest. The U. S. Supreme Court held: Petitioner was not accorded a fair opportunity to determine whether he was within his rights in refusing to answer, and his conviction was invalid under the Due Process Clause of the Fifth Amendment.

Judgment of Court of Appeals reversed, and case remanded to District Court with instructions to dismiss indictment.

Sweezy v. New Hampshire (1957) 354 U.S. 234

In an investigation conducted by State Attorney General, acting on behalf of State Legislature under a broad resolution directing him to determine whether there were "subversive persons" in the State and to

recommend further legislation on that subject, appellant answered most questions asked him, including whether he was a Communist; but he refused to answer questions related to (1) the contents of a lecture he had delivered at the State University, and (2) his knowledge of the Progressive Party of the State and its members. He did not plead his privilege against self-incrimination, but based his refusal to answer such questions on the grounds that they were not pertinent to the inquiry and violated his rights under the First Amendment. Persisting in his refusal when haled into a State Court and directed to answer he was adjudged guilty of contempt. This judgment was affirmed by the State Supreme Court, which construed the term "subversive persons" broadly enough to include persons engaged in conduct only remotely related to actual subversion and done completely apart from any conscious intent to be a part of such activity. It also held that the need of the Legislature to be informed on the subject of self-preservation of government outweighed the deprivation of constitutional rights that occurred in the process. The U. S. Supreme Court held: on the record in this case, appellant's rights under the Due Process Clause of the 14th Amendment were violated, and the judgment is reversed.

Yates et al. v. U. S. (1957) 354 U.S. 298

The 14 petitioners, leaders of the Communist Party in California, were convicted of conspiring to commit crimes with specific intent of causing overthrow of the Government of the U. S. by force and violence as speedily as circumstances would permit. The U. S. District Court entered judgments of conviction and defendants appealed. The Court of Appeals held that evidence was sufficient to sustain conviction of each of defendants

and affirmed judgment of district court. The U. S. Supreme Court reversed this judgment and remanded the case to the District Court with directions to enter judgments of acquittal as to five of the petitioners and to grant a new trial as to the others.

Service v. Dulles (1957) 354 U.S. 363

Action against Secretary of State and others for a judgment declaring plaintiff's discharge from position of Foreign Service Officer by a former Secretary of State, invalid, reinstatement to position and salary from date of discharge, and other relief. From a summary judgment of the District Court for defendants, plaintiff appealed. The Court of Appeals held that plaintiff was validly discharged under statute authorizing Secretary of State, in his absolute discretion, to terminate employment of any Foreign Service officer whenever Secretary deems such termination necessary or advisable in interests of United States, though procedures prescribed by Executive Order for removal of State Department employees on grounds of disloyalty were not followed.

Judgment affirmed.

The U. S. Supreme Court held that petitioner's discharge was invalid, because it violated Regulations of the Department of State which were binding on the Secretary.

Judgment reversed, and remanded.

Flaxer v. U. S. (1957) 354 U.S. 929

Defendant was convicted of contempt in that he refused to comply with subpoena duces tecum requiring him to produce certain records of union of which he was president, before senate subcommittee on internal

security subcommittee hearing on certain date and president attended hearing but failed to produce records, stating to subcommittee that he did not comply because its command was improper and single member of subcommittee conducting hearings stated that president was directed to produce records according to terms of subpoena, president was properly directed to produce records in accordance with subpoena, and his failure to do so was willful and he was guilty of contempt.

Judgment affirmed.

The U. S. Supreme Court, per curiam vacated judgment of Court of Appeals, and remanded case for consideration in light of Watkins v. U. S.

Barenblatt v. U. S. (1957) 354 U.S. 930

Prosecution for contempt of Congress for defendant's refusal to answer certain questions during his testimony before subcommittee of Committee of Un-American Activities of House of Representatives. The District Court entered judgment of conviction, and defendant appealed. The Court of Appeals held, inter alia, that indictment charging defendant with unlawfully refusing to answer enumerated questions concerning his past membership in activities in the Communist Party was not fatally defective even though it did not plead a deliberate and intentional or knowing refusal to answer, and affirmed judgment.

The U. S. Supreme Court, per curiam, vacated judgment of Court of Appeals, and remanded case for consideration in light of Watkins v. U. S.

Sacher v. U. S. (1957) 354 U.S. 930

Prosecution for refusal to answer questions concerning Communist Party membership asked by Senate Subcommittee investigating recantation of testimony by other witnesses who had given evidence before Subcommittee to expose Communist conspiracy, in view of hearsay information linking witness with Communist Party, the latter with conspiracy to bring about recantation, and witness with alleged conspiracy.

Judgment affirmed.

The U. S. Supreme Court, per curiam: The judgment of the Court of Appeals is vacated and the case is remanded for consideration in light of Watkins v. U. S. 354 U.S. 178.

Raley et al. v. Ohio (1957) 354 U.S. 929

Witnesses before Ohio Un-American Activities Commission were found guilty of contempt for refusal to answer questions. The Ohio Supreme Court held that where statutory immunity granted witness before the Ohio Un-American Activities Commission afforded witness as much protection against self-incrimination as that to which witness was entitled by the constitutional provision against self-incrimination, witness had a clear duty to give her testimony free of a refusal to answer based on rule of privilege arising from constitutional provision.

Judgment affirmed.

The U. S. Supreme Court, per curiam: The judgment of the Supreme Court of Ohio is vacated and the case is remanded for consideration in the light of Sweezy v. New Hampshire, 354 U.S. 234, and Watkins v. U. S., 354 U.S. 178.

Seales v. United States (1957) 355 U.S. 1

Prosecution on indictment charging membership in Communist Party, a group which allegedly advocated overthrow of government by force and violence, by one who knew of such criminal purposes, and who intended to bring about such overthrow as speedily as circumstances would permit. The U. S. District Court rendered judgment of conviction, and defendant appealed. The Court of Appeals held that evidence sustained conviction.

Reversed, by U. S. Supreme Court per curiam, on authority of Jencks v. U. S. 353 U.S. 657.

U. S. v. Lightfoot (1957) 355 U.S. 2

Defendant was convicted under "membership" clause of Smith Act. The District Court rendered judgment, and defendant appealed. The Court of Appeals held, inter alia, that "membership" clause was not unconstitutional; also, that defendant was not entitled to production of prosecution witness' report to FBI, absent showing that such report was inconsistent with witness' trial testimony.

The Supreme Court, per curiam, said: "Upon consideration of the entire record and the confession of error by the Solicitor General, the judgment of the United States Court of Appeals for the Seventh Circuit is reversed. Jencks v. United States, 353 U.S. 657."

Simpson v. U. S. (1957) 355 U.S. 7

Defendant was convicted of contempt of Congress. The District Court imposed sentence and fine and defendant appealed. The Court of Appeals held that question asked witness before Congressional Subcommittee,

eliciting his place of residence was not within privilege against self-incrimination, in absence of suggestion by defendant or his counsel during interrogation or during subsequent criminal contempt prosecution how facts ordinarily not incriminating might reasonably tend to be incriminating in their special setting.

Judgment affirmed.

The U. S. Supreme Court, per curiam: Upon consideration of the entire record and the confession of error by the Solicitor General, the judgments of the Court of Appeals are reversed. Hoffman v. U. S. 351 U.S. 479.

Uphaus v. Wyman (1957) 355 U.S. 16

Proceeding by State's Atty. General for order to compel compliance by defendant with two subpoenas duces tecum served upon him in course of legislative investigation of subversive activities. The court adjudged defendant in contempt and transferred without ruling the question of law raised by case and defendant also reserved exceptions which were transferred. The State Supreme Court held that under the circumstances the legislature was entitled to have disclosed to it guest registration at summer resort as well as correspondence of defendant with persons presenting speeches and discussions at resort, and compelling disclosure did not violate defendant's constitutional rights.

Remanded.

The U. S. Supreme Court, per curiam, vacated judgment and remanded case to Supreme Court of New Hampshire for consideration in light of Sweezy v. New Hampshire, 354 U.S. 234.

Rowoldt v. Perfetto (1957) 355 U.S. 115

Habeas corpus proceeding to test deportation order. The U. S. District Court denied petition, and petitioner appealed. The Court of Appeals held that evidence in deportation proceeding supported finding that alien had had, after his admission to United States, more than nominal membership in Communist Party, and affirmed order.

This was reversed by U. S. Supreme Court. Held: (1) From petitioner's testimony, the dominating impulse of his "affiliation" with the Party may well have been wholly devoid of any "political" implications. (2) The record is too insubstantial to establish that petitioner's membership was the kind of meaningful association required by §22, as amended by the Act of March 28, 1951, to support an order of deportation.

Labor Board v. Mine Workers (1958) 355 U.S. 453

The NLRB found that an employer had committed an unfair labor practice by assisting a union to defeat the efforts of a rival union to organize the employer's workers, but that the assisted union was not dominated by the employer. It ordered the employer to post certain notices and to withdraw and withhold recognition from the assisted union until it received the Board's certification as the exclusive bargaining representative of the employees. The assisted union was not eligible for such certification, because it was not in compliance with §9(b), (g) and (h) of the NLR Act as amended. The Court of Appeals modified the Board's Order so that the employer would be free to recognize the assisted union not only when certified by the Board but, alternately, when it "shall have

been freely chosen as [their representative] by a majority of the employees after all effects of unfair labor practices have been eliminated".

The U. S. Supreme Court held: In the circumstances of this case, the Board's order is not appropriate or adapted to the situation calling for redress, and it constitutes an abuse of power under §10(c).

Judgment vacated with instructions to remand the case to the Board.

Wilson v. Loew's, Inc. (1958) 355 U.S. 597

A number of former employees of the motion-picture industry brought suit in a California state court for damages and injunctive relief against a number of motion-picture producers and distributors, alleging that the latter directly or indirectly controlled all motion-picture production and distribution in the United States and all employment opportunities therein and had agreed to deny employment to all employees and persons seeking employment who refused, on grounds of the Fifth Amendment, to answer questions concerning their political associations and beliefs put to them by the Un-American Activities Committee of the House of Representatives. The action of the trial court in sustaining a demurrer to the complaint without leave to amend was affirmed on appeal, on the ground that the plaintiffs had failed to allege particular job opportunities. The plaintiffs petitioned the U. S. Supreme Court for certiorari, which was granted, claiming that they had been denied due process and equal protection of the laws in violation of the Fourteenth Amendment. Held: The writ is dismissed as improvidently granted because the judgment rests on an adequate state ground.

Bryson v. U. S., cert. denied, 355 U.S. 817 (1957); Rehearing denied, 355 U.S. 879 (1957)

Defendant was convicted in District Court of filing false non-Communist affidavit with NLRB and he appealed. The Court of Appeals held that evidence supported conviction.

Affirmed.

NLRB v. Lannom Mfg. Co., cert. denied, 355 U.S. 822 (1957)

Proceeding by the NLRB for enforcement of an unfair labor practice order issued against the employer. On motion of the respondent to remand the cause to the NLRB. The Court of Appeals held that enforcement of unfair labor practice order was not barred on ground that charging union was not in compliance with the statute requiring the filing of non-Communist affidavits by union officers.

Motion to remand and alternate motion to dismiss overruled.

Jiminez v. Barber, cert. denied, 355 U.S. 903 (1957)

Alien's action for declaratory judgment to contest holding of Attorney General that he was not eligible for suspension of deportation. District Court entered judgment adverse to plaintiff and he appealed. Court of Appeals held that under statute providing that Attorney General may, within his discretion, suspend deportation of certain deportable aliens who have proved good moral character within preceeding 5 years, where such an alien was granted hearing, after warrant was issued for his deportation, questions propounded to him as to his affiliation with certain organizations, including the Communist Party, were within legitimate area

of inquiry, and his refusal to answer them justified refusal to treat him as deserving of discretionary relief.

Judgment affirmed.

Niukkanen v. Boyd, cert. denied, 355 U.S. 905 (1957)

The Court of Appeals, per curiam: This appeal is from an order of the District Court dismissing appellant's petition for a writ of habeas corpus and injunctive relief, discharging the writ of habeas corpus earlier issued, and remanding appellant to the Immigration Service for deportation to Finland. On the grounds and for the reasons stated in the District Court's opinion, D. C., 148 F. Supp. 106, the order appealed from is affirmed.

Rystad v. Boyd, cert. denied, 355 U.S. 912 (1958); rehearing denied 355 U.S. 967 (1958)

Alien's suit, challenging legality of deportation order, seeking writ of habeas corpus, declatory judgment and injunctive relief. From an adverse judgment rendered by the District Court the alien appealed. The Court of Appeals held that court's determination, in alien's prior suit to review administrative proceedings resulting in deportation order that evidence was sufficient to support deportation order, was final and determination on issue of sufficiency of evidence and issue could not be relitigated.

Affirmed.

U. S. v. Lehmann, cert. denied, 355 U.S. 905 (1957); rehearing denied 355 U.S. 925 (1958)

Application for writ of habeas corpus to test the legality of an order for applicant's deportation. From an order of the District Court

denying the application, applicant appealed. The Court of Appeals held that applicant's testimony at hearings in deportation proceedings as to his active membership in Communist Party and a subversive organization under Communist domination placed him in class of aliens subject to arrest and deportation under statute, on Attorney General's warrant and order.

Order affirmed.

U. S. v. Silverman, cert. denied 355 U.S. 942 (1958)

Prosecutions for conspiracy to violate the Smith Act. The District Court entered judgment of conviction and defendants appealed. The Court of Appeals held that evidence was insufficient to sustain convictions for conspiracy to use language reasonably calculated to incite the audience to use violence against the Government of the United States, either immediately or in the future, in violation of the act.

Reversed with directions for dismissal of indictment.

Klig v. Brownell, (1958) 26 L.W. 3249

Action by alien against U. S. Attorney General to obtain declaratory relief from a deportation order. The U. S. District Court entered judgment adverse to alien, and alien appealed. The Court of Appeals held that alien's past membership in the Communist Party of Canada was sufficient to sustain his deportation; and affirmed judgment.

The U. S. Supreme Court, per curiam: Upon suggestion of mootness by all of the parties, the judgment of the Court of Appeals is vacated and the case is remanded to the District Court with directions to dismiss the cause as moot.

Lerner v. Casey (1958) 26 L.W. 4509

Proceeding for an order compelling city transit authority to reinstate petitioner in position of conductor in the city's subway system. The Supreme Court, Special Term, Kings County, New York, granted the authority's motion for dismissal and petitioner appealed. The Supreme Court, Appellate Division, Second Judicial Department, affirmed by a divided court, and petitioner appealed. The Court of Appeals held that under Security Risk Law, transit authority was authorized to discharge an employee occupying position of subway conductor in its agency which had been designated a "security agency" under such law; merely upon a showing that when asked if he was "then" a member of the Communist Party, he refused to answer, and gave as a reason for so refusing that his answer might tend to incriminate him within the meaning of the Fifth Amendment to the Federal Constitution.

The U. S. Supreme Court, in affirming the state court decision, said in the course of its opinion:

The issue then reduces to the narrow question whether the conclusion which could otherwise be reached from appellant's refusal to answer is constitutionally barred because his refusal was accompanied by the assertion of a 5th amendment privilege. We think it does not. The Federal privilege against self-incrimination was not available to appellant through the 14th amendment in this state investigation. Knapp v. Schweitzer (1958) 26 L.W. 4528; Adamson v. California (1947) 332 U.S. 46. And we see no merit in appellant's suggestion that, despite the teachings of these cases, the plea was available to him in this instance

because the State was acting as agent for, or in collaboration with, the Federal Government. This contention finds no support in the record. Hence we are not here concerned with the protection, as a matter of policy or constitutional requirement, to be accorded persons who under similar circumstances, in a Federal inquiry, validly invoke the Federal privilege. 18 U.S.C. §3481; Wilson v. U. S., 149 U.S. 60; Slochower v. Board of Higher Education, 350 U.S. 551, Grunewald v. U. S., 353 U.S. 391. Under these circumstances, we cannot say that appellant's explanation for his silence precluded New York from concluding that his failure to respond to relevant inquiry engendered reasonable doubt as to his trustworthiness and reliability.

We hold that appellant's discharge was not in violation of rights assured him by the Federal Constitution.

Kent v. Dulles (1958) 26 L.W. 4413

Separate actions against Secretary of State for declaration, inter alia, that plaintiffs were entitled to passports. The U. S. District Court for the District of Columbia, in both cases, granted motions of Secretary and plaintiffs appealed. The U. S. Court of Appeals for the District of Columbia Circuit, 101 U.S. App. D.C. 239, 248 F. 2d 561, 101 U.S. App. D.C. 278, 248 F. 2d 600, affirmed and Supreme Court granted certiorari. The Supreme Court, Mr. Justice Douglas, held that under statutes providing that passports may be issued under such rules as President shall prescribe and that it is unlawful for citizen to enter or leave United States without a valid passport, Secretary of State did not have authority to promulgate regulations

denying passports, in effect, to Communists and to persons whom evidence showed were going abroad to further Communist causes, or regulation giving authority to demand a non-Communist affidavit from citizen applying for passport.

Reversed.

Bonetti v. Rogers (1958) 356 U.S. 691

Action to set aside order of deportation. The U. S. District Court for the District of Columbia dismissed the complaint. The alien appealed. The U. S. Court of Appeals (D.C.) 99 U.S. App. D.C. 386, 240 F. 2d 624, affirmed, and the alien brought certiorari. The Supreme Court, Mr. Justice Whittaker, held that where alien was admitted to U. S. for permanent residence on November 1, 1923, and alien became member of Communist Party in 1932 and remained member to and of 1936 when he left party and never rejoined it, and in 1937 he voluntarily left U. S. to go to Spain to fight in Spanish Republican Army, and on October 8, 1938 he was admitted to U. S. for permanent residence as a quota immigrant and he thereafter continuously resided in U. S. except for a one day visit to Mexico in September 1939, alien's "time of entering United States", within Sections of Internal Security Act of 1950 providing in effect for deportation of any alien who was at time of entering U. S., or who has been at any time thereafter, a member of Communist party, was October 8, 1938, as affected, if at all, by his returning entry from Mexico in September 1939, and inasmuch as alien was not on October 8, 1938, or at any time thereafter, including September 1939, a member of Communist Party, he was not deportable under the Act.

Reversed.

Beilan v. Board of Public Education (1958) 26 L.W. 4512

Proceedings for removal of teacher. The Court of Common Pleas, No. 6 of the County of Philadelphia reversed the Superintendent of Public Instruction's order discharging the teacher and the Board of Education appealed. The State Supreme Court held, that where the local superintendent of schools, in 1952, asked teacher if teacher had been press director of professional section of Communist political association in 1944, and teacher after consulting counsel refused to answer that question or similar questions, the deliberate and insubordinate refusal stamped teacher with incompetence within statute making incompetence ground for dismissal of teacher. Court's order reversed and Superintendent's order affirming dismissal sustained.

The U. S. Supreme Court, in an opinion by Mr. Justice Burton stated, in substance: The question before us is whether the Board of Public Education for the School District of Philadelphia, Pennsylvania, violated the Due Process Clause of the 14th Amendment when the Board, purporting to act under the Pennsylvania Public School Code, discharged a public school teacher on the ground of "incompetency", evidenced by the teacher's refusal of his Superintendent's request to confirm or refute information as to the teacher's loyalty and his activities in certain allegedly subversive organizations. We hold that it did not. We find no requirement in the Federal Constitution that a teacher's classroom conduct be the sole basis for determining his fitness. Fitness for teaching depends on a broad range of factors. The Pennsylvania tenure provision specifies several disqualifying grounds one of which is

"incompetency". In the instant case, the Pennsylvania Supreme Court has held that "incompetency" includes petitioner's deliberate and insubordinate refusal to answer the questions of his administrative superior in a vitally important matter pertaining to his fitness. 386 Pa., at 91, 125 A 2d., at 331. Said Mr. Justice Burton: "This interpretation is not inconsistent with the Federal Constitution."

The petitioner complained that he was denied due process because he was not sufficiently warned of the consequences of his refusal to answer his Superintendent. The Court was of opinion that petitioner had sufficient warning, and "there was no element of surprise."

Judgment of Supreme Court of Pennsylvania affirmed.

Friedman v. International Association of Machinists, cert. denied 26 L.W. 3368 (1958)

Action presenting question whether union member was expelled from membership in union in a manner which entitled him to judicial redress. From adverse judgment of the U. S. District Court for the District of Columbia, 147 F. Supp. 1, the defendants appealed. The Court of Appeals (D.C.) held that where union member, following his expulsion by international president for advocating, encouraging and supporting Communism in violation of union constitution, was given time to prepare and file a brief, through Council, with executive counsel of union, which sustained president, and union member was granted an oral hearing before appeals and grievance committee, which also recommended his expulsion, procedures within the union were adequate.

Judgment reversed and case remanded with directions.

CASES PENDING BEFORE SUPREME COURT

Barenblett v. U. S., 26 L.W. 2343 (1958; cert. granted 26 L.W. 3297 (1958))

Questions presented in this case are: (1) Did Congress authorize House Committee on Un-American Activities to investigate Communist activities in field of education. (2) Are statute and resolution establishing Committee void for vagueness, and do they abridge freedom of speech and political and academic association, fail to inform witness of nature and cause of accusation against him, and invade powers reserved to people, in violation of 1st, 6th, 9th, and 10th Amendments. (3) Did Committee fail to apprise witness of subject matter of investigation and pertinency of investigation, and was its inquiry for unlawful purpose of exposing witness, thereby vitiating contempt convictions.

Schleich v. Butterfield (1958) 356 U.S. 971

Alien brought action against the District Director of Immigration and Naturalization to review a final order of deportation. The U. S. District Court (E.D. Mich.) 148 F. Supp. 44, entered summary judgment in favor of the District Director and alien appealed. The Court of Appeals held that evidence was sufficient to establish "meaningful association" by alien with Communist Party and to show that he joined the Communist Party, aware that he was joining an organization known as the Communist Party, which operated as a distinct and active political organization, and that he did so of his own free will, so as to justify his deportation. Judgment affirmed.

Petition for certiorari filed with U. S. Supreme Court which entered this order:

On petition for writ of certiorari to the U. S. Court of Appeals for the Sixth Circuit. The motion to release administrative records to the Board of Immigration Appeals is granted. In the event of an adverse ruling by the Board of Immigration Appeals the time for filing the respondent's brief is extended for a period of 30 days thereafter.

Vitarelli v. Seaton, petition for cert. filed June 12, 1958; 26 L.W. 3380

Ruling below (CADC, 26 L.W. 2396):

Doctrine of Cole v. Young, 351 U.S. 536, does not invalidate Interior Department's summary security-risk discharge of employee from nonsensitive position excepted from classified civil service; such employee was legally discharged, even though proceedings against him were "improperly labeled" as being brought under authority of Summary Suspension Act of August 26, 1950 and E.O. No. 10450.

Questions presented: (1) Was employee's constitutional rights violated; (2) did Interior Secretary's finding of "untrustworthiness" purportedly made under his Departmental Security Regulations, survive Interior Department's and Civil Service Commission's subsequent voluntary expunging of all records of "any adverse statements" with respect to employee as security risk, so as to furnish rational basis for his discharge; (3) can security-risk dismissal of concededly loyal employee

from nonsensitive position be effected solely on basis of secret reports after hearing (26 L.W. 3380).

Hugh P. Price*
Legal Analyst
American Law Division
August 7, 1958

*Mary Louise Ramsey's memo. of March 15, 1957 utilized.

UN-AMERICAN

NEWARK, N.J. (AP)—HARVEY O'CONNOR, A RHODE ISLAND AUTHOR, TODAY DEFIED THE HOUSE UN-AMERICAN ACTIVITIES COMMITTEE BY REFUSING TO APPEAR AS A WITNESS.

O'CONNOR WROTE THE COMMITTEE THAT HE HAD "PROFOUND RESPECT FOR THE CONSTITUTION" BUT THAT HE WAS DECLINING TO APPEAR IN VIEW OF THE SUPREME COURT DECISION IN THE WATKINS CASE AND ON GROUNDS THE COMMITTEE LACKED AUTHORITY.

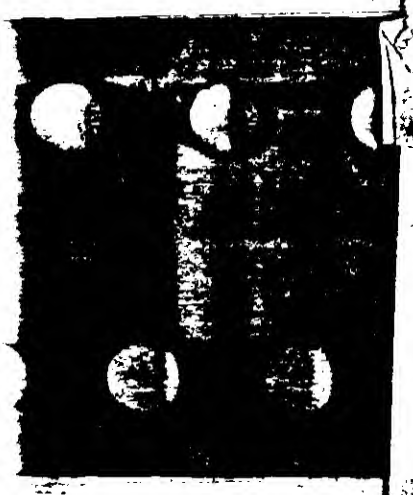
ACTING SUBCOMMITTEE CHAIRMAN WILLIS (D-LA) SAID THE SUBCOMMITTEE WOULD RECOMMEND THAT O'CONNOR BE CITED FOR CONTEMPT OF CONGRESS.

"HE IS ASKING FOR IT," WILLIS SAID.

O'CONNOR, OF LITTLE COMPTON, R. I., TOLD THE SUBCOMMITTEE IN A LETTER:

"NOT ONE SINGLE PIECE OF LEGISLATION HAS EMANATED FROM THE 21 YEARS OF ACTIVITY OF THIS COMMITTEE. IT HAS AMASSED TESTIMONY FILLING A FIVE-FOOT SHELF WITHOUT PRODUCING A SINGLE CONSTRUCTIVE LAW. IT HAS WASTED MILLIONS OF DOLLARS. . . IT HAS RUINED THE LIVES OF THOUSANDS OF CITIZENS WHOSE IDEAS THE HOUSE COMMITTEE CONSIDERED UNORTHODOX. IT IS TIME TO CHALLENGE THE POWER OF THE HOUSE COMMITTEE TO SPREAD FEAR AND CONFUSION AMONG US. BY DECLINING TO RESPOND TO THE HOUSE COMMITTEE'S SUBPOENA, I MAKE THE CHALLENGE."

ER102P 9/3/58



LONDON (AP)-AMERICAN INDUSTRIALIST CYRUS EATON LEFT MOSCOW FOR PARIS TODAY IN A RUSSIAN TU104 JET AIRLINER.

HE HAD SPENT A FORTNIGHT IN THE SOVIET UNION, DURING WHICH HE WROTE AN ARTICLE IN PRAVDA URGING PRESIDENT EISENHOWER AND PRIME MINISTER NIKITA KHRUSHCHEV TO EXCHANGE VISITS.

WED3AED 9/3/58

HUNTSVILLE

WASHINGTON (AP)-THE ARMY SAID TODAY THAT PICKETING BY F... ELECTRICAL WORKERS HAS RESULTED IN THE SUSPENSION OF WORK BY SOME ... EMPLOYES AT THE REDSTONE ARSENAL, HUNTSVILLE, ALA.

THE FEDERAL MEDIATION AND CONCILIATION SERVICE SAID ITS COMMISSIONER IN ATLANTA, FRED BECK, HAS BEEN SEEKING TO GET REPRESENTATIVES OF THE COMPANY, UNION AND ARMY ENGINEERS TOGETHER TO TRY TO IRON OUT THE DISPUTE.

AN ARMY SPOKESMAN SAID THE PICKETING NOW IS IN ITS SECOND WEEK. HE SAID IT IS AFFECTING CONTRACTS TOTALING MILLIONS OF DOLLARS AND INVOLVING "RATHER SIGNIFICANT JOBS THAT MUST BE DONE TO CARRY ON THE MISSILE WORK."

THE SPOKESMAN ADDED THAT BECAUSE SOME PERSONS WERE REFUSING TO CROSS THE PICKET LINE, THE ARSENAL IN AN OFFICIAL LETTER ASKED THE STRIKERS TO RESTRICT THEIR PICKETING TO ONE GATE SO THAT OTHER GATES MIGHT REMAIN OPEN TO WORKERS NOT INVOLVED IN THE DISPUTE.

PICKETING WORKERS REFUSED TO DO THIS, THE SPOKESMAN SAID, AND THUS ARE PREVENTING SOME 650 OTHER PERSONS WORKING ON ARMY ENGINEER CONTRACTS, AND 300 ADDITIONAL INDIVIDUALS, FROM STAYING ON THEIR JOBS.

CZ315PED 9/3/58

62-27585-24

September 16, 1958

REC-16

62-27585-124

EX-128

Mr. Lawrence Sullivan
Coordinator of Information
United States House of Representatives
Washington 25, D. C.

Dear Mr. Sullivan:

Your letter of September 10, 1958, with its enclosures, has been received.

Your thoughtfulness and courtesy in forwarding to me the pamphlet entitled "Supreme Court Cases Relating to Communists and Subversives" are appreciated.

Sincerely yours,

J. Edgar Hoover

John Edgar Hoover
Director

100-374533-9
62-60527-34532

NOTE ON YELLOW:

Copies of pamphlet mentioned above are being retained by Messrs. Belmont, Baumgardner and [redacted] Sullivan also enclosed Washington Wire Service releases relating to HCUA hearing in Newark, Cyrus Eaton and a strike at Redstone Arsenal, Huntsville, Alabama. Bufiles reflect cordial correspondence with Sullivan in past. It is believed a brief general reply as above is appropriate.

[redacted] b7C, b6

MAILED 4
SEP 10 1958
COMM-FBI

Tolson
Boardman
Belmont
Mohr
Nease
Parsons
Rosen
Tamm
Trotter
Clayton
Tele. Room
Holloman
Gandy
Sullivan

66 SEP 26 1958
MAIL ROOM

BI

66
67C

Office Memorandum · UNITED STATES GOVERNMENT

TO: Mr. Tolson

DATE: September 12, 1958

FROM: G. A. N[illegible]

SUBJECT: THREATS TO SUPREME COURT JUSTICES

For record purposes, at 2:20 p.m. today, [redacted], who is very friendly to the Bureau, telephoned Wick. He said he understood that several members of the FBI were in the Supreme Court this morning to hear the decision on the Little Rock integration matter. He asked how many men we had in the Court. [redacted] said also that he understood that Justices of the Supreme Court had received threats as a result of their decision and that their homes may be guarded by the FBI tonight. He asked for confirmation and comment.

ACTION TAKEN:

After checking, Wick advised [redacted] that as for the location and deployment of FBI Agents, we would not have anything to say. With respect to the Justices receiving threats, Wick told Mathis that we had received no such information and that as a fact-finding, fact-gathering agency we do not do guard duty and this would appear to be a local matter for the Metropolitan police or other appropriate law enforcement agency covering the residence of each Justice and he may wish to inquire of those agencies.

1 - Mr. Rosen
1 - Mr. Jones

REW:sal
(4)

62-27585 REC-3 NOT RECORDED 117 SEP 17 1958

SEP 15 1958

EX-LUR

68 SEP 18 1958

CRIM [redacted]

Office Memorandum • UNITED STATES GOVERNMENT

TO : Mr. Tolson

DATE: September 12, 1958

FROM : G. A. Nease

SUBJECT: THREATS TO SUPREME COURT JUSTICES

In regard to your inquiry concerning the FBI Agents at the Supreme Court today, Mr. Rosen advises me that both yesterday and today he arranged for two Special Agents of the Washington Field Office, Henry L. DeBuck and William R. Liston, to be in attendance for the purpose of covering the proceedings and reporting back promptly to the Bureau.

It is, of course, no business of the press that we had anyone present.

1 - Mr. Rosen
1 - Mr. Jones

REW:sak
(4)

62-27585-

NOT RECORDED
117 SEP 17 1958

REC-3

SEP 15 1958

EX-108

61 SEP 23 1958

A-572 (9-29-55)
STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : The Director

DATE: 9-12-58

FROM : J. P. Mohr

SUBJECT: The Congressional Record

Pages A8035-A8036 Congressman Sheehan, (R) Illinois, pointed out that "there has been much discussion about the Supreme Court and its attitude toward various Communist control acts passed by the Congress." Mr. Sheehan included two articles written by Mr. George Tedt, columnist for the San Fernando Valley Times, on the Smith Act and the decisions of the Supreme Court. Mr. Sheehan advised that Mr. Tedt has made some valuable suggestions regarding a new approach in our dealing with the criminal Communist conspiracy operating in our midst. Mr. Tedt stated "It is impossible for any person who has taken the Communist oath to also take the loyalty oath to the United States. ---- Why not order the FBI to round up the comrades - most of whom are on file - and then give them a denaturalization trial by a jury of their own peers?"

Pages A8155-A8156 Congressman Cramer, (R), extended his remarks concerning the refusal by the 85th Congress to act to deal with the Supreme Court coddling of Reds and Criminals. He stated "Congress' inaction dealt a serious blow to law enforcement and will be hard for the American people to understand."

Original filed in:

62-27585-V
NOT RECORDED
167 OCT 2 1958

59 OCT 7 1958

In the original of a memorandum captioned and dated as above, the Congressional Record for 9-11-58 was reviewed and pertinent items were marked for the Director's attention. This form has been prepared in order that portions of a copy of the original memorandum may be clipped, mounted, and placed in appropriate Bureau case or subject matter files.

[redacted]

b6, b7C

Mr. Tolson
Mr. Belmont
Mr. Mohr
Mr. Nease
Mr. Parsons
Mr. Rosen
Mr. Tamm
Mr. Trotter
Mr. W.C.Sullivan
Tele. Room
Mr. Holloman
Miss Gandy

September 13, 1958

Mr. J. Edgar Hoover
Federal Bureau of Investigation
Washington, D.C.

Dear Mr. Hoover:

Recent decisions by the U. S. Supreme Court lead me to believe that there must be some Communists or at least Communist sympathizers amongst the Justices. How else could they render these decisions? They well know that FORCED immediate integration would lead to strife and unrest, just what the Communists want.

Would it not be a good idea to investigate ALL the Justices ? Perhaps this is being done already. If anything detrimental is found, I hope Congress will take prompt appropriate action.

The F. B. I. has been doing a good job and I sincerely hope that you will be able to expose ALL Communists in our Government.

Respectfully yours

[redacted]

b6, b7C

EXP PROC

SEP 15 1958

REC-93

62-27585-125

EX-133

SEP 24 1958

FBI

[redacted]

b6, b7C

[redacted]

b6, b7C

d

Y [redacted]

b6, b7C

REC 83 62-27585-125

September 22, 1958

[redacted]

Morristown, New Jersey

b6, b7C

Dear [redacted]

I have received your letter dated September 12, 1958, and appreciate the interest which prompted you to communicate with me.

Your kind comment concerning the FBI is most gratifying.

Sincerely yours,

J. Edgar Hoover

John Edgar Hoover
Director

COMM-FBI
SEP 22 1958
MAILED 20

1 - Newark

NOTE TO SAC, NEWARK:

Correspondent advised that recent decisions of the Supreme Court led him to believe there are some communists or communist sympathizers among the Justices. He believes the Court knew that immediate forced integration would bring strife and unrest which are the desires of the communists. He further believes that if it is not already being done, all the Justices of the Supreme Court should be investigated.

Bufiles contain no identifiable data concerning correspondent. This is furnished for your information in the event correspondent contacts your office.

SEP 29 1958

[redacted] (4)

MAIL ROOM

b6, b7C

Tolson
Boardman
Belmont
Mohr
Nease
Parsons
Rosen
Tamm
Trotter
Clayton
Tele. Room
Holloman
Gandy
W. C. Sullivan

FBI - READING ROOM

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : Mr. A. H. Belmont

DATE: October 7, 1958

FROM : W. C. Sullivan

SUBJECT: CRITICISM OF SUPREME COURT
INFORMATION CONCERNING
CENTRAL RESEARCH MATTER

Tolson
Boardman
Belmont
Mohr
Nease
Parsons
Rosen
Tamm
Trotter
Clayton
Tele. Room
Holloman
Gandy

(A) Following a string of headline-raising decisions by the United States Supreme Court, an officer of the American Bar Association recently termed 1957 "a black year in law enforcement." (OM Crimdel --- 10/2/58)

[redacted]

b6, b7C

"Milk and Honey"

Sylvester C. Smith Jr., of Newark, New Jersey, chairman of the American Bar Association's House of Delegates, in Omaha to address the Nebraska State Bar Association, charged on October 2, 1958, that the Supreme Court "is forgetting the public right to the administration of justice." He declared that 1957 was a year "dominated by decisions in which the guilty criminal was often the fond object of the Court's doting tenderness. "Criminals," he added, "especially if they were Communists, found Court decisions flowing with milk and honey."

Breakdown of Law and Order

Despite the guarantee of the Constitution, Mr. Smith went on to say, "all indications are that law and order is breaking down." He placed some of the blame for the collapse on Supreme Court decisions and cited the examples of a convicted rapist who was set free because the police did not have him arraigned quickly enough, and of a convicted robber-rapist whose death sentence has been held in abeyance for nine years while he continues to fire appeals at any and every court that will listen to him. In the security field, Mr. Smith referred to the Los Angeles Smith Act case where "for the first time in history, the Court directed acquittal of five defendants on grounds of insufficient evidence — a matter previously left to the trial court."

[redacted] (8)

b6, b7C

EX-102

REC-8

62-27585-124

1 - Section Tickler
1 - [redacted]
1 - Mr. Belmont
1 - Mr. Mohr
1 - Mr. Rosen
1 - Mr. Nease
1 - Criminal Intelligence Unit

14 OCT 16 1958

CENTRAL RESEARCH

Memorandum to Mr. Belmont
RE: CRITICISM OF SUPREME COURT

Urges Legislation

Mr. Smith said, "The real problem now is whether you can convict a guilty person," and urged lawyers to come up with legislation designed to restrict technical reversals of clear-cut decisions of guilt, and to block multiple appeals.

RECOMMENDATION

For the information of the Director.